

**ASSESSMENT, COLLECTION, AND  
REMITTANCE OF COURT-RELATED  
FINES, FEES, AND OTHER CHARGES,  
AND SELECTED REPORTING OF  
COURT-RELATED ACTIVITIES  
BY CLERKS OF THE CIRCUIT COURTS**

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**Operational Audit**



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**ASSESSMENT, COLLECTION, AND REMITTANCE OF SELECTED  
COURT-RELATED FINES, FEES, AND OTHER CHARGES AND SELECTED  
REPORTING OF COURT-RELATED ACTIVITIES  
BY CLERKS OF THE CIRCUIT COURTS**

**SUMMARY**

Our operational audit disclosed the following:

**LAWS RELATING TO COURT FINES, FEES, AND OTHER CHARGES**

**Finding No. 1:** Various conflicts and inconsistencies exist in laws relating to court fees.

**COURT-RELATED PROCESSES, POLICIES, AND PROCEDURES**

**Finding No. 2:** The clerks we reviewed had either not performed or not documented a recent risk assessment relating to the processes of assessing, collecting, remitting, and reporting court fees.

**Finding No. 3:** Most of the clerks we reviewed had not established comprehensive, written policies and procedures that covered one or more critical functions relating to assessing, collecting, remitting, and reporting of court fees.

**Finding No. 4:** Most of the clerks we reviewed had not developed comprehensive fraud policies.

**Finding No. 5:** For most of the clerks we reviewed, we noted control deficiencies relating to the assessment, collection, and remittance of court fees.

**COLLECTION AND REMITTANCE OF COURT FEES**

**Finding No. 6:** Some of the clerks we reviewed did not pursue the collection of past due court fees, contrary to Section 28.246, Florida Statutes.

**Finding No. 7:** Some of the clerks we reviewed did not remit partial payments of court fees in accordance with the priority established by Section 28.246(5), Florida Statutes.

**Finding No. 8:** We noted many instances in which clerks we reviewed did not report court fee collections to the Department of Revenue using the correct statutory citation categories, resulting in incorrect information for data analysis purposes or moneys deposited into incorrect State funds.

**Finding No. 9:** Some of the clerks we reviewed did not remit interest earned on court fee collections to the Department of Revenue, contrary to Section 28.245, Florida Statutes. Other clerks remitted the interest earned net of related bank charges without apparent authority to do so.

**REPORTING OF COURT-RELATED ACTIVITIES**

**Finding No. 10:** Some of the clerks we reviewed inconsistently reported assessment and collection amounts to the Florida Clerks of Court Operations Corporation (CCOC). Also, there were instances in which some of the clerks we reviewed did not maintain records to support amounts reported to CCOC.

**Finding No. 11:** Some of the clerks we reviewed did not have the systems capability to properly identify and report converted or reduced assessments of court fees to the Legislature.

**Finding No. 12:** Most of the clerks we reviewed had employees who performed both court-related and county-related activities, and the salary and benefits of these employees were allocated partially to the State (court-related) and partially to the county (county-related). However, the clerks indicated that these employees did not keep records documenting the actual time and effort they spent on each of these activities to support the allocations of their salaries and benefits.

## BACKGROUND

The clerks of the circuit courts (clerks) collect fines, fees, service charges, and court costs (hereinafter collectively referred to as court fees). These court fees are generally established in law and many are considered to be State funds. Court fees established in law provide the funding of the court-related functions of the counties, although the counties are still required to fund certain costs, such as communications systems. A listing of statutory references establishing court fees that are considered to be State funds is shown in Exhibit C.

Effective July 1, 2009, clerks are required to remit court fees collected, less 10 percent of court-related fines for the clerks' Public Records Modernization Trust Funds, to the Department of Revenue (DOR) on a monthly basis. The numerous laws that establish court fees also indicate into which State fund(s) the court fees should be deposited. For the period July 1, 2009, through February 28, 2011, DOR records indicate that the 67 clerks throughout the State remitted court fees totaling approximately \$1.9 billion to DOR for deposit to 55 State funds. A summary of these remittances by State fund is presented in Exhibit D.

In addition to remitting court fees to DOR, clerks report case activity to the Florida Clerks of the Court Operations Corporation (CCOC). CCOC is a political subdivision of the State created by the Legislature to perform various responsibilities including reviewing each clerk's budget and developing performance measures and standards for the clerks. For the period July 1, 2009, through February 28, 2011, the clerks of all 67 counties reported nearly 11 million cases processed to CCOC, most (58.83 percent) of which were civil traffic cases, which generally consist of non-criminal cases originating from the issuance of uniform traffic citations.

The State finances the clerks' court-related operations through annual appropriations, and the appropriations are based on each clerk's proposed annual budget that is prepared and submitted to CCOC for review. The budget request must identify the service units to be provided within each core service and the unit cost for each service unit.<sup>1</sup> CCOC reviews each individual clerk's prior-year expenditures, projected revenue, proposed unit costs, and the proposed budget for each of the core-service categories and compares each clerk's prior-year expenditures and unit costs for core services with a peer group of clerks having a similar county population and a similar number of case filings. If CCOC finds that the expenditures, unit costs, or proposed budget of a clerk is significantly higher than those of clerks in that clerk's peer group, CCOC must require the clerk to submit documentation justifying the difference.<sup>2</sup> If a clerk cannot provide appropriate justification, CCOC must recommend a reduction in funding to an amount similar to the clerk's peer group or to an amount that CCOC determines is justified. CCOC then provides recommended budgets for the clerks to the Legislature and Supreme Court by December 1 of each year.

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<sup>1</sup> Pursuant to Section 28.36(4), Florida Statutes, service units are developed by CCOC in consultation with the Supreme Court, the Chief Financial Officer, and the appropriation committees of the Senate and the House of Representatives. For the 2009-10 and 2010-11 fiscal years, service units were defined as cases, including reopened cases, and notices of appeal. The core services, as defined in Section 28.36(3), Florida Statutes, are: circuit criminal, county criminal, juvenile delinquency, criminal traffic, circuit civil, county civil, civil traffic, probate, family, and juvenile dependency.

<sup>2</sup> Justification for higher expenditures includes, but is not limited to, collective bargaining agreements, county civil service agreements, and the number and distribution of courthouses served by the clerk.

## FINDINGS AND RECOMMENDATIONS

### Laws Relating to Court Fines, Fees, and Other Charges

#### Finding No. 1: Conflicts and Inconsistencies in Laws Relating to Court Fees

While reviewing the various laws establishing court fees, we noted several conflicting or inconsistent statutory provisions. For example:

- Timing of Remittance of State Funds. Section 28.245, Florida Statutes,<sup>3</sup> states that, notwithstanding any provisions of law, all moneys collected by the clerks as part of the clerks' court-related functions for subsequent distribution to any State entity must be electronically transmitted to DOR for appropriate distribution by the 10th day of the month immediately after the month in which the moneys are collected. However, Section 213.13(5), Florida Statutes, states that all court-related collections, including fees, fines, reimbursements, court costs, and other court-related funds must be electronically remitted to the State by the 20th day of the month immediately following the month in which the funds are collected.
- State Agency to Receive State Funds. As noted above, Section 28.245, Florida Statutes, states in part that, notwithstanding any other provisions of law, all moneys collected by the clerks as part of their court-related functions for subsequent distribution to any State entity must be electronically transmitted to DOR for appropriate distribution. However, Section 318.14(10)(b), Florida Statutes, indicates that a portion of certain court costs be distributed to the Department of Juvenile Justice rather than to DOR. Likewise, Section 258.008(1), Florida Statutes, indicates that fines paid under this subsection shall be paid to the Department of Environmental Protection rather than DOR. We determined that clerks, in practice, are remitting the court costs and fines to DOR. A similar finding was noted in our report No. 2005-019 (finding No. 8).
- Amounts to be Retained by Clerks. Prior to July 1, 2009, the clerks retained certain court fees to cover the costs of providing court-related services or to be used for other statutorily mandated purposes. However, as noted in the Background section of this report, effective July 1, 2009, the clerks are required to remit court fees collected to DOR on a monthly basis. Many of the laws that existed prior to July 1, 2009, have not been updated to clarify that clerks are no longer authorized to retain court fees (except 10 percent of court-related fines for the clerks' Public Records Modernization Trust Funds as provided for in Section 28.37(2), Florida Statutes). For example, Section 569.11(6), Florida Statutes, indicates that 20 percent of the civil penalties for possession of tobacco products by a person under the age of 18 shall remain with the clerks to cover administrative costs. Although Section 142.01(1)(f), Florida Statutes, states that revenues received by the clerks that are authorized by law to be retained by the clerks should be remitted to DOR on a monthly basis, revising the specific laws relating to the individual court fees would provide additional clarity to users.
- State Funds Into Which Court Fees are to be Deposited. Section 28.37(2), Florida Statutes, states that, except as provided for in Sections 28.241 and 34.041, Florida Statutes, all court-related fines, fees, service charges, and costs are considered State funds and shall be remitted to DOR for deposit into the Clerks of the Court Trust Fund. However, as shown in Exhibit C, there are numerous laws other than Sections 28.241 and 34.041, Florida Statutes, that require the clerks to remit court fees to DOR for deposit in many State funds other than the Clerks of the Court Trust Fund.
- Information Required for Indigent Determinations. Sections 27.52 and 57.082, Florida Statutes, prescribe specific procedures for indigent determinations to be made by the clerks. Such determinations are required to be made as a ministerial act of the clerk, include specific financial information, and are based upon signed affidavits of the applicant. However, Section 28.246, Florida Statutes, provides for indigent determinations to be made by the courts, but does not prescribe the manner in which the indigent determinations are to be made, including what financial information should be considered. Likewise, Section 938.30, Florida Statutes,

<sup>3</sup> All references to the Florida Statutes are to the 2010 statutes.

provides that the courts may require a person liable for payment of a financial obligation in a criminal case to be examined under oath concerning the person's financial ability to pay the obligation. This Section further provides that the judge may convert the financial obligation to community service after determining a person's inability to pay; however, it does not prescribe the manner in which the indigent determination is to be made, including what financial information should be considered. A similar finding was noted in our report No. 2005-19 (finding No. 2).

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**Recommendation:** The Legislature should review the above laws and consider amending them, as necessary, to eliminate conflicts and inconsistencies.

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<b>Court-related Processes, Policies, and Procedures</b>
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**Finding No. 2: Risk Assessment Procedures**

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As discussed in the Background section of this report, the clerks are responsible for processing a substantial number of court cases for which they collect and remit considerable court fees. Given the volume of transactions, collections, and remittances they process, it is important that they identify significant risks impacting their activities and develop procedures and controls to mitigate these risks. Performing periodic risk assessment procedures is a useful practice for identifying and analyzing such risks. These procedures should involve a systematic identification of matters that could prevent the clerk's goals and objectives from being met, an assessment of the probability of those matters occurring and their significance, and a determination on the part of management as to whether management considers it cost-beneficial to implement controls to prevent or detect those matters. As a practical matter, a formal risk assessment could be performed and documented on an annual basis; however, as a good business practice, the risk assessment process should be ongoing as new internal and external threats constantly develop.

Our audit disclosed that the 15 clerks reviewed (Broward, Collier, DeSoto, Duval, Hernando, Jackson, Martin, Miami-Dade, Okaloosa, Okeechobee, Pasco, Polk, Putnam, Santa Rosa, and Sumter) had either not performed or not documented a recent risk assessment relating to the processes of assessing, collecting, remitting, and reporting court fees. A common reason provided by the clerks for not performing or not documenting a recent risk assessment was that the clerks rely on external auditors to perform a risk assessment as part of their annual financial audits of the county. While external auditors may perform risk assessments as part of their annual financial audit, those risk assessments are primarily designed to assess the risk of a material misstatement in the financial statements of the county, not for the purpose of determining how to manage identified risks relating to the achievement of the clerk's goals and objectives. The clerks increase the risk that their procedures and controls may not effectively reduce risks to an acceptable level when they do not perform risk assessment procedures.

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**Recommendation:** Each clerk should perform and document periodic risk assessments relating to the assessment, collection, remittance, and reporting of court fees.

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**Finding No. 3: Written Policies and Procedures**

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The 15 clerks reviewed varied from small to large, and they included clerks that may have one person responsible for a specific function to clerks that may have entire divisions or departments handling that same function. Many of the clerks have been, or will be, experiencing turnover as experienced employees retire or terminate. It is important that the clerks have comprehensive, written policies and procedures to provide management and employees with guidelines regarding the effective, efficient, and consistent conduct of the clerks' business activities. Written policies

and procedures also help ensure consistent continuation of critical business practices by assisting in the training of new staff or assisting in the implementation of changes in key controls or personnel. In addition, written policies and procedures, if properly designed, communicated to employees, and effectively placed into operation, provide management with additional assurance that the clerks' business activities are conducted in accordance with management intentions and applicable laws, rules, and other guidelines.

Our audit disclosed that 14 of the 15 clerks reviewed (Broward, Collier, DeSoto, Duval, Hernando, Jackson, Martin, Okaloosa, Okeechobee, Pasco, Polk, Putnam, Santa Rosa, and Sumter) had not established comprehensive, written policies and procedures that covered one or more critical functions relating to assessing, collecting, remitting, and reporting court fees. These functions included, but were not limited to:

- Assessing court fees or verifying the accuracy and completeness of assessments made by the courts (Broward, Collier, DeSoto, Duval, Hernando, Jackson, Martin, Okaloosa, Okeechobee, Pasco (civil division), Polk, Putnam, Santa Rosa, and Sumter).
- Determining if individuals qualify for payment of court fees over time (i.e., indigency determinations) (Collier, DeSoto, Duval, Hernando, Jackson, Martin, Okaloosa, Okeechobee, Putnam, and Sumter).
- Receipting and recording court fees (DeSoto and Okeechobee).
- Pursuing collections of past due amounts (Collier, DeSoto, Duval, Hernando, Jackson, Martin, Okaloosa, Okeechobee, Putnam, and Sumter).
- Remitting collections to DOR (Broward, Collier, DeSoto, Hernando, Jackson, Martin, Okaloosa, Okeechobee, Putnam, Santa Rosa, and Sumter).
- Reporting the numbers of new cases, re-opened cases, and appeals to CCOC (Broward, Collier, DeSoto, Duval, Hernando, Jackson, Martin, Okaloosa, Okeechobee, Putnam, Santa Rosa, and Sumter).
- Reporting collection rate performance measures (e.g., actual percentage of fines, fees, and other charges collected during five business quarters from the time of assessment) (Broward, Collier, DeSoto, Duval, Hernando, Jackson, Martin, Okaloosa, Okeechobee, Putnam, Santa Rosa, and Sumter).
- Reporting annual report information (e.g., converted or reduced assessments) to the Legislature and CCOC as required by Section 28.246, Florida Statutes (Broward, Collier, DeSoto, Duval, Hernando, Jackson, Martin, Okaloosa, Okeechobee, Pasco, Polk, Putnam, Santa Rosa, and Sumter).

The clerks provided a variety of reasons for not developing comprehensive, written policies and procedures that addressed the critical functions noted above. Some of the clerks indicated that they believe relevant Florida Statutes and externally provided (e.g., CCOC and FACC) instructions and distribution schedules are sufficient for their needs. While these resources provide guidance to the clerks, they do not establish the specific procedures that each clerk should follow within their own unique control environments to ensure compliance with these laws and guidelines. Further, a lack of comprehensive, written policies and procedures could have contributed to the deficiencies discussed elsewhere in this report.

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**Recommendation:** The clerks noted above should develop comprehensive, written policies and procedures addressing all critical functions relating to the assessment, collection, remittance, and reporting of court fees.

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#### Follow-up to Management's Response

*In her response, the DeSoto Clerk indicated that she does not agree that additional written policies are needed and stated that each Deputy Clerk has a manual and access to FACC's Best Practices, Florida Statutes, Laws of Florida, Administrative Orders, County Ordinances and Rules of Procedure. However,*

*these documents do not spell out what procedures are performed by individual employees throughout the process. The point of our finding is that having written procedures available to staff to use as a reference helps ensure consistent application of critical business practices and in the training of new employees.*

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**Finding No. 4: Fraud Policies**

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Due to the substantial volume of transactions and collections processed, the clerks have an increased risk that employees could engage in fraudulent activities. As a part of their control procedures, many organizations have developed fraud policies and procedures to educate employees about proper conduct, create an environment that deters dishonesty, and maintain controls that provide reasonable assurance of achieving management objectives and detecting dishonest acts. Effective fraud policies clearly identify actions that constitute fraud, the manner in which potential fraud should be reported by employees, responsibilities for investigating potential fraud, and consequences of fraudulent behavior. A critical component of these policies is to designate an individual or department that will accept responsibility for investigating potential fraud, take appropriate action, report evidence of such action to the appropriate authorities, and avoid damaging the reputations of persons suspected of fraud but subsequently found innocent.

Our audit disclosed that 11 of the 15 clerks reviewed (Collier, DeSoto, Duval, Jackson, Martin, Okeechobee, Pasco, Polk, Putnam, Santa Rosa, and Sumter) had not developed comprehensive fraud policies. While the clerks may have adopted work rules, standards of conduct, or ethics policies that included some of the elements of effective fraud policies, these rules and policies lacked one or more of the key provisions of the effective fraud policies noted above. In the absence of comprehensive fraud policies, the risk increases that known or suspected fraud may not be properly reported or that suspected fraud may be identified but not properly investigated and, if necessary, reported to the appropriate authority.

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**Recommendation:** The clerks noted above should develop comprehensive fraud policies to aid in the detection and prevention of fraud.

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**Finding No. 5: Collection Control Deficiencies**

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As discussed in the Background section of this report, the 67 clerks throughout the State collected \$1.9 billion in court fees that were remitted to the State during the period July 1, 2009, through February 28, 2011. Clerks are responsible for establishing adequate controls to provide reasonable assurance that these collections are safeguarded against loss from unauthorized use or disposition until their ultimate remittance to DOR. Our review of the collection procedures for the 15 clerks reviewed disclosed the following control deficiencies:

- Three clerks (DeSoto, Jackson, and Santa Rosa) did not restrictively endorse checks immediately upon receipt to limit the negotiability of the checks in case of loss or theft.
- Six clerks (DeSoto, Jackson, Okeechobee, Polk, Santa Rosa, and Sumter) did not always document the transfer of the responsibility for collections from the point of initial collection to the ultimate deposit in the bank to fix responsibility in case of loss or theft.
- Three clerks (Jackson, Okeechobee, and Sumter) allowed different employees to simultaneously work out of the same cash drawer thereby limiting their ability to fix responsibility for the collections in case of loss or theft.
- Two clerks (Jackson and Pasco) did not have effective controls in place over the safeguarding, use, and accounting for manual receipt documents. Without such controls, the risk increases that collections may not be properly accounted for and timely deposited in the bank.



- Thirteen clerks (Broward, Collier, DeSoto, Duval, Hernando, Jackson, Martin, Miami-Dade, Okaloosa, Okeechobee, Polk, Santa Rosa, and Sumter) did not require an employee to log collections received through the mail at the earliest point in the collection process. Without logging mail collections and subsequently comparing the collections to amounts recorded and deposited, the risk increases that all collections may not be properly accounted for and timely deposited in the bank.

A similar finding was noted in our report No. 2005-019 (finding No. 3). We understand that implementing controls involves a cost element and that management may ultimately decide to accept the risks of not implementing controls due to cost considerations. However, as noted in finding No. 2, the above clerks did not perform or document risk assessment procedures indicating their decision to accept these risks.

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**Recommendation:** The clerks noted above should establish effective controls to address these deficiencies or formally document their decision to accept the related risks.

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**Follow-up to Management’s Response**

*In their responses, the DeSoto and Jackson Clerks indicated that immediately endorsing checks upon receipt is not feasible due to multiple bank accounts used. However, these Clerks could endorse the checks “For Deposit Only in the Name of the Clerk” without inclusion of the account number until such time as the appropriate account number is determined.*

<b>Collection and Remittance of Court Fees</b>
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**Finding No. 6: Past Due Collection Efforts**

The clerks use various methods to compel the payment of assessed court fees, including sending delinquent notices and suspending driver’s licenses. Section 28.246, Florida Statutes, provides that, in addition to other collection methods used, the clerks pursue the collection of any fees, service charges, fines, court costs, and liens for the payment of attorney fees and costs pursuant to Section 938.29, Florida Statutes, that remain unpaid after 90 days by referring the account to a private attorney who is a member in good standing of The Florida Bar or collection agent who is registered and in good standing pursuant to Chapter 559, Florida Statutes. Prior to pursuing the collection of such unpaid amounts through a private attorney or collection agent, a clerk must have attempted to collect such amounts through a collection court, collection docket, or other collection process, if any, established by the court, if the clerk finds it would be cost-effective to pursue collection.

For the 15 clerks reviewed, we tested 480 cases initiated during the period July 1, 2009, through February 28, 2011, including 58 cases (12 percent) for 14 clerks for which timely payment was not received. We noted for 11 (19 percent) of these 58 cases that, as of February 28, 2011, 3 clerks (Broward 3 cases, Pasco 3 cases, and Putnam 5 cases) had not timely pursued the collection of court fees, totaling \$4,850, contrary to Section 28.246, Florida Statutes. The amounts past due ranged as high as \$796 (Putnam) and, as of February 28, 2011, had been outstanding as long as 17 months (Broward). The reasons provided for not pursuing the collections varied, as noted below:

- Broward Clerk personnel indicated that, absent a defendant’s plea and court adjudication, they do not submit traffic infraction cases to a collection agency. However, this practice is inconsistent with the clerk’s written collection procedures which indicate that the cases should be turned over to the collection agency after 90 days.
- Pasco Clerk personnel indicated that criminal traffic cases are not sent to collection after 90 days because its case management system does not currently interface with its cashiering database.

- Putnam Clerk personnel indicated that they do not have the resources or support to actively pursue past due criminal collections.

Failure to timely pursue the collection of past due court fees through an attorney or collection agency is contrary to law and reduces the probability of ultimate collection of past due court fees.

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**Recommendation:** The clerks noted above should establish effective controls to pursue the collection of past due court fees through an attorney or collection agency in accordance with the requirements of Section 28.246, Florida Statutes.

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### **Finding No. 7: Partial Payment Deficiencies**

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Section 28.246(5), Florida Statutes, provides that when the clerks receive partial payments of court fees, the clerks shall distribute the payments received to DOR in the following priority:

- 1) That portion of fees, service charges, court costs, and fines to be remitted to the State for deposit into the General Revenue Fund.
- 2) That portion of fees, service charges, court costs, and fines which are required to be retained by the clerk of the court or deposited into the Clerks of the Court Trust Fund within the Justice Administrative Commission.
- 3) That portion of fees, service charges, court costs, and fines payable to State trust funds, allocated on a pro rata basis among the various authorized funds if the total collection amount is insufficient to fully fund all such funds as provided by law.
- 4) That portion of fees, service charges, court costs, and fines payable to counties, municipalities, or other local entities, allocated on a pro rata basis among the various authorized recipients if the total collection amount is insufficient to fully fund all such recipients as provided by law.

Of the 364 payments included in our tests for the 15 clerks reviewed, 25 payments were partial payments. We noted that 5 (20 percent) of the 25 partial payments were not remitted by 3 clerks (Okaloosa 1 payment, Okeechobee 1 payment, and Santa Rosa 3 payments) to DOR in accordance with the priority described above. These errors appeared to be clerical in nature. Also, the Hernando Clerk indicated that the Clerk's civil division did not remit partial payments to DOR until the entire payment had been received. This practice is contrary to Section 28.245, Florida Statutes, which requires that all moneys collected be distributed to DOR by the 10th day of the month following collection. As of February 28, 2011, the Hernando Clerk held partial payments totaling approximately \$21,000 which had not been remitted to DOR.

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**Recommendation:** The clerks noted above should enhance their partial payment remittance procedures to ensure that the payments are timely remitted to DOR in accordance with the priority established by Section 28.246(5), Florida Statutes.

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### **Finding No. 8: Remittance Errors**

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As noted previously, DOR requires the clerks to report court fee collections remitted by statutory citation and revenue description that correspond to a specific State fund such as those identified in Exhibit C. The statutory citations and revenue descriptions are listed on separate lines in an online DOR remittance portal, and the clerks manually record the amounts they collected on the various lines in the portal. Based on the clerks' entries, DOR subsequently distributes the remittances to the appropriate State funds.

Our tests of the assessment, collection, and remittance of court fees included determining whether court fees collected for selected cases were accurately reported to DOR via its online remittance portal. Our tests disclosed that for 7 of the 15 clerks reviewed (Duval, Jackson, Miami-Dade, Okaloosa, Polk, Putnam, and Santa Rosa), errors were made when remitting payments for 20 (24 percent) of the 84 cases tested. The errors, which were the result of either incorrectly recording court fees in the clerks' accounting records or transferring amounts correctly recorded in the accounting records to the wrong line in the DOR remittance portal, are discussed below:

- The Duval Clerk incorrectly remitted the \$50 fine assessed pursuant to Section 379.401, Florida Statutes, for failure to possess a valid hunting or fishing license, to the City of Jacksonville. The fine should have been remitted to DOR for deposit in the Clerks of the Court Trust Fund. The Duval Clerk indicated that approximately \$12,800 was not remitted to DOR for similar violations during the period July 1, 2009, through February 28, 2011.
- For several clerks, the errors resulted in the collections being remitted for deposit to an incorrect State fund. Table 1 identifies these errors, as follows:

Table 1					
Remittance Errors Resulting in Collections Being Deposited in the Wrong State Fund					
Clerk	Fee Amount/ Type	Incorrectly Remitted for Deposit In		Should Have Been Remitted for Deposit In	
		Statutory Citation	State Fund	Statutory Citation	State Fund
Duval	\$17.50 license fee	327.73(8)	Marine Resources Conservation Trust	142.01(2)	Clerks of the Court Trust
Jackson	\$80 portion of filing fee	28.241(1)(a)1.b.	State Courts Revenue Trust	28.241(1)(a)2.d.	General Revenue
Miami-Dade	\$5 portion of civil traffic base fine	775.083(1)(g)	General Revenue	316.613/316.614	Epilepsy Services Trust
Miami-Dade	\$1 portion of civil traffic base fine	775.083(1)(g)	General Revenue	318.21(1)	Child Welfare Training Trust
Miami-Dade	\$1 portion of civil traffic base fine	775.083(1)(g)	General Revenue	318.21(1)	Juvenile Justice Training Trust
Miami-Dade	7.2 percent of remaining civil traffic base fine	775.083(1)(g)	General Revenue	318.21(2)(b)	Emergency Medical Services Trust
Miami-Dade	5.1 percent of remaining civil traffic base fine	775.083(1)(g)	General Revenue	318.21(2)(c)	Additional Court Cost Clearing Trust
Miami-Dade	8.2 percent of remaining civil traffic base fine	775.083(1)(g)	General Revenue	318.21(2)(d)	Brain and Spinal Cord Injury Program Trust
Miami-Dade	2 percent of remaining civil traffic base fine	775.083(1)(g)	General Revenue	318.21(2)(e)	Florida Endowment Foundation for Vocational Rehabilitation
Miami-Dade	.5 percent of remaining civil traffic base fine	775.083(1)(g)	General Revenue	318.21(2)(f)	Clerks of the Court Trust
Miami-Dade	56.4 percent of remaining civil traffic base fine	775.083(1)(g)	General Revenue	318.21(2)(g)1	Clerks of the Court Trust
Okaloosa, Putnam	\$3 portion of civil traffic	938.01(1)(a)	Additional Court Cost Clearing Trust	318.18(17)	State Agency Law Enforcement Radio System Trust
Okaloosa	\$2 in court costs	938.06	Crime Stoppers Trust	142.01(2)	Clerks of the Court Trust
Polk	\$5 portion of civil traffic	318.21(20)	State Courts Revenue Trust	318.21(7)	Nongame Wildlife Trust
Polk	\$25 portion of civil traffic	318.21(7)	Nongame Wildlife Trust	318.21(20)	State Courts Revenue Trust
Santa Rosa	\$1.50 portion of filing fee	28.241(1)(a)2.d.	Clerks of the Court Trust	28.241(1)(a)2.d.	Department of Financial Services Administrative Trust
Santa Rosa	\$0.50 portion of filing fee	34.041(1)(b)	Court Education Trust	28.241(1)(a)2.e.	Clerks of the Court Trust

Source: Clerks' remittance records and Florida Statutes

- For several clerks, the errors resulted in reporting collections under an incorrect statutory citation, but the collections were remitted for deposit to the correct State fund. Table 2 identifies these errors, as follows:

Table 2					
Remittance Errors Resulting in Collections Being Classified in the Wrong Statutory Citation Category					
Clerk	Fee Amount/ Type	Incorrectly Remitted Under		Should Have Been Remitted Under	
		Statutory Citation	State Fund	Statutory Citation	State Fund
Duval	\$3 court costs	318.18(11)(d)	Additional Court Costs Clearing Trust	938.01	Additional Court Costs Clearing Trust
Jackson	\$180 portion of filing fee	28.241(1)(a)1.a.	State Courts Revenue Trust	28.241(1)(a)2.d.	State Courts Revenue Trust
Jackson	\$15 portion of filing fee	28.241(1)(a)1.a.	Mediation and Arbitration Trust	28.241(1)(a)2.d.	Mediation and Arbitration Trust
Jackson, Santa Rosa	\$3.50 portion of filing fee	28.241(1)(a)1.a.	Clerks of the Court Trust	28.241(1)(a)2.d.	Clerks of the Court Trust
Jackson, Santa Rosa	\$1.50 portion of filing fee	28.241(1)(a)1.a.	Department of Financial Services Administrative Trust	28.241(1)(a)2.d.	Department of Financial Services Administrative Trust
Jackson, Santa Rosa	\$1 portion of civil traffic	318.14(10)(b)	Child Welfare Training Trust	318.21(1)	Child Welfare Training Trust
Miami-Dade	20.6 percent of remaining civil traffic base fine	775.083(1)(g)	General Revenue	318.21(2)(a)	General Revenue
Okaloosa, Santa Rosa	\$3 portion of civil traffic	938.01(1)(a)	Additional Court Costs Clearing Trust	318.18(11)(d)	Additional Court Costs Clearing Trust
Putnam	\$1.50 portion of filing fee	28.241(1)(a)1.a.	Department of Financial Services Administrative Trust	28.241(1)(a)1.b.	Department of Financial Services Administrative Trust
Santa Rosa	\$15 portion of filing fee	34.041(1)(b)	Mediation and Arbitration Trust	28.241(1)(a)2.d.	Mediation and Arbitration Trust
Santa Rosa	\$1,685 portion of filing fee	28.2401(1)	State Courts Revenue Trust	28.241(1)(a)2.d.	State Courts Revenue Trust
Santa Rosa	\$80 portion of filing fee	34.041(1)(b)	General Revenue	28.241(1)(a)2.d.	General Revenue
Santa Rosa	\$80 portion of filing fee	28.2401(1)	State Courts Revenue Trust	28.241(1)(a)1.b.	State Courts Revenue Trust
Santa Rosa	\$3.50 portion of filing fee	28.241(1)(a)1.c.	Clerks of the Court Trust	28.241(1)(a)1.b.	Clerks of the Court Trust
Santa Rosa	\$6.50 portion of civil traffic	318.21(2)(a)	General Revenue	318.18(8)(a)	General Revenue
Santa Rosa	\$1 portion of civil traffic	318.14(10)(b)	Juvenile Justice Training Trust	318.21(1)	Juvenile Justice Training Trust

Source: Clerks' remittance records and Florida Statutes

Although these collections were ultimately remitted for deposit to the correct State fund, the Legislature and others use the statutory citation categories for data and analyses purposes. Thus, incorrect conclusions relating to court fee collections may be drawn when the clerks use incorrect statutory citation categories.

Additionally, while performing other audit procedures, we noted other instances that resulted in collections being deposited in an incorrect State fund or under an incorrect statutory citation category. For example, the Hernando Clerk incorrectly remitted \$80,880 (\$80 filing fee for 1,011 dissolutions of marriage) on the line for Section 142.01(2), Florida Statutes, for deposit in the Clerks of the Court Trust Fund. These filing fees should have been reported on the line for Section 28.241(1)(a)1.a., Florida Statutes, for deposit in the General Revenue Fund. Likewise, two clerks incorrectly reported court fee collections for one month as shown in Table 3:

Table 3					
January 2011 Remittance Errors					
Clerk	Incorrectly Remitted for Deposit In		Should have been Remitted for Deposit In		Total Amount
	Statutory Citation	State Fund	Statutory Citation	State Fund	
Polk	34.041(1)(b)	Mediation and Arbitration Trust	34.041(1)(b)	Court Education Trust	\$ 3,294
Polk	318.21(7)	Nongame Wildlife Trust	318.21(20)	State Courts Revenue Trust	36,162
Polk	318.21(20)	State Courts Revenue Trust	318.21(7)	Nongame Wildlife Trust	8,380
Santa Rosa	318.18(5)(c)	Emergency Medical Services Trust	318.18(8)(a)	Highway Safety Operating Trust	1,511
Santa Rosa	318.18(7)	Audit and Warrant Clearing Trust	318.18(8)(a)	Highway Safety Operating Trust	3,409
Santa Rosa	318.18(19)(a)	State Courts Revenue Trust	318.21(20)	State Courts Revenue Trust	5,938
Santa Rosa	775.083(1)(g)	General Revenue	318.18(19)(a)	State Courts Revenue Trust	8,023
<b>Total</b>					<b>\$ 66,717</b>

Source: Clerks' remittance records and Florida Statutes

Due to the errors noted above, we could not determine that all court fee collections were remitted for deposit in the correct State fund or under the appropriate statutory citation. As a result, the Legislature, and other users of this information may draw incorrect conclusions relating to court fee collections.

Pursuant to Section 28.35(5)(b), Florida Statutes, certified public accountants conducting audits of counties pursuant to Section 218.39, Florida Statutes, must report, as part of the audit, whether or not the clerks have complied with the requirements of Sections 28.35 and 28.36, Florida Statutes. However, there is no requirement for auditors to report on compliance with the remittance requirements specified in law. Additional assurances as to the propriety of fee remittances could be realized through a requirement for external auditors to review clerk remittances of court fees as part of audits conducted pursuant to Section 218.39, Florida Statutes.

**Recommendation:** The clerks should develop more effective procedures to ensure that court fee collections are recorded on the correct line in DOR's remittance portal. Also, the remittance errors noted above should be communicated to DOR so that the proper adjustments may be initiated. In addition, the Duval Clerk should contact the City of Jacksonville to recover the moneys that should have been remitted to the State and remit them to DOR. Further, the Legislature should consider requiring certified public accountants conducting audits of counties pursuant to Section 218.39, Florida Statutes, to report as part of the audit whether or not clerks have complied with the court fees remittance requirements.

**Finding No. 9: Investing Court Fee Collections Pending Remittance to DOR**

Section 219.075(1)(c), Florida Statutes, does not require the clerks to invest moneys collected as part of their court-related functions while such moneys are pending distribution. Section 28.245, Florida Statutes, requires the clerks to electronically remit the moneys collected as part of their court-related functions to DOR by the 10th day of the month immediately after the month in which the moneys are collected. Florida Attorney General's Opinion 75-241A, states, in part that "...the interest on public moneys collected by the circuit court clerk on behalf of the county or any other State or local official or body for subsequent distribution thereto and invested prior to distribution must be credited to the county or other distributee, along with the principal." Therefore, if the clerks do invest court-related collections, any interest earned on those collections should be remitted to DOR.

Our audit disclosed that all but 2 (Broward and Sumter) of the 15 clerks reviewed invested court-related collections during the period July 1, 2009, through February 28, 2011. However, personnel for 5 of the 13 clerks that did invest court-related collections indicated that the clerks did not remit all interest earned to DOR, as follows:

- Three clerks (Jackson, Martin, and Okaloosa) remitted the interest earned on court-related collections to DOR to the extent that interest earned exceeded related bank fees.
- Two clerks (Duval and Santa Rosa) did not remit any interest earned on court-related collections to DOR. Duval clerk personnel indicated that they mistakenly believed the interest belonged to the county, and Santa Rosa clerk personnel indicated that they believed the interest earned did not need to be remitted since the clerk received payments from the State to cover court costs after the court costs had been incurred.

We are aware that there are costs associated with investing court-related collections and identifying interest earned allocable to DOR. However, we are not aware of any provision of law that would allow the clerks to net the interest earned on court-related collections against bank fees or investment costs. Due to the volume of transactions at the clerks and the variety of ways in which they account for the interest earned, it was not practical for us to determine the amount of interest earned on court-related collections that the clerks should have remitted to DOR during the period July 1, 2009, through February 28, 2011.

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**Recommendation:** The clerks noted above that did not remit all interest earned to DOR should establish effective procedures to ensure that the interest earned on court-related collections is remitted to DOR as provided in Section 28.245, Florida Statutes. The Legislature should consider revising Section 28.245, Florida Statutes, to clarify whether or not the clerks can remit the interest earned net of related costs. Until that time, the clerks should remit all interest earned on court-related collections to DOR.

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<b>Reporting of Court-related Activities</b>
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<b>Finding No. 10: Performance Reporting</b>
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Section 28.35, Florida Statutes, requires CCOC to develop a uniform system of performance measures and standards for the clerks. These measures and standards are designed to provide ways to objectively measure each clerk’s performance by establishing minimum standards in the areas of fiscal management, operational efficiency, and effective collections of court fees. To facilitate performance measurement, the clerks are required to submit certain data to CCOC on quarterly collections reports. The quarterly collections reports are designed to track each dollar that was assessed in a particular quarter (referred to as a control group) for the next five quarters to determine the extent to which assessments were collected during that time frame.

Our examination of the quarterly collections reports submitted by the 15 clerks reviewed during the period July 1, 2009, through February 28, 2011, disclosed certain inconsistencies in the manner in which the clerks reported the assessment and collection amounts on these reports. The assessments for a given quarter, and the collections thereon, are tracked over five quarters (a 15-month period). Instructions sent to clerks by CCOC concerning completion of the quarterly collections reports include the following statement: “Assessments should generally remain the same or go down as assessment amounts are waived. Collections, on the other hand, are generally expected to remain the same or increase because it is very rare that once an assessment is collected that it will be refunded.” CCOC’s instructions for completing the quarterly collections reports also indicate that new assessments made on existing cases should be tracked separately in the quarter that the new assessment was made (i.e., a new control group). However, we noted the following practices for completing quarterly reports that are contrary to CCOC’s instructions:

- Four of the fifteen clerks (Jackson, Miami-Dade, Pasco, and Putnam) indicated that they reported new assessments (not adjustments of the original assessment) that were made on existing cases as adjustments to the original assessment rather than reporting the new assessment in the quarter in which it was assessed.
- The Putnam Clerk indicated that when subsequent adjustments were made to original assessments, they incorrectly restated the assessments reported in all of the previously reported quarters for the applicable control group so that the assessment amount would be the same throughout the five quarters.

We also noted that 7 of the 15 clerks (Broward, Hernando, Jackson, Martin, Okeechobee, Putnam, and Santa Rosa) did not retain the case detail with assessments and collections by case as of the end of each of the five quarters that would support the assessment and collection amounts reported on the quarterly collections reports. Although Florida record retention requirements provide that such records must be retained for at least three fiscal years, several clerks indicated that they were not aware of any requirements to keep the case detail as of the end of each quarter. These clerks were able to provide a copy of a summary report that agreed to amounts shown on the quarterly reports and a case detail generated as of the date of our request; however, this case detail contained any changes made to the assessment and collection amounts since the end of the quarters reported. As a result, the assessment and collection amounts in the case detail did not agree with the assessment and collection amounts reported on the original quarterly collections reports.

Additionally, as a result of our review, Okaloosa Clerk personnel determined that a software programming error caused the system to use an incorrect assessment date for approximately 13,500 cases that could have potentially been reported in an incorrect control group during the period July 1, 2009, through February 28, 2011.

Given the above reporting inconsistencies, errors, and the lack of supporting records, it was not practical for us to determine the accuracy of the quarterly collections reports upon post audit.

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**Recommendation:** The clerks noted above should maintain the case detail to support the assessment and collection amounts reported on the quarterly collections reports and ensure that their reporting procedures adhere to CCOC reporting instructions.

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#### **Finding No. 11: Reporting Converted or Reduced Assessments**

Section 28.246(1), Florida Statutes, requires the clerks to submit an annual report to the Legislature that contains certain information about court fees, including the amounts assessed; amounts discharged, waived, or otherwise not assessed; and the amounts collected during the fiscal year. This Section further states that, if provided to the clerks by the judges, the clerks, in reporting the amounts assessed, shall separately identify the amount of converted or reduced assessments in the following categories: amounts assessed per Section 938.30, Florida Statutes, as community service; amounts reduced to judgments or liens; amounts satisfied by time served; or other. Other converted or reduced assessments include alternative sentences such as a person providing the courts proof that he or she has a valid driver's license in lieu of assessing a monetary penalty, or sentences where the court does not specify the reason the monetary penalty is reduced. As a practical matter, the converted or reduced assessment amounts in the annual report are categorized by court type (circuit criminal, county criminal, circuit juvenile, and civil traffic).

The annual report for the period October 1, 2009, through September 30, 2010, showed that the 67 clerks throughout the State reported approximately \$166 million (10 percent) of \$1.6 billion in assessments as converted or reduced. In connection with our evaluation of the converted or reduced assessment amounts reported by the 15 clerks reviewed, several clerks indicated that their information technology systems (IT systems) did not have the capability to separately identify converted or reduced assessment in the detail required by law. For example:



- The Miami-Dade Clerk reported all converted or reduced assessments for the circuit criminal court, totaling approximately \$32 million, as other converted or reduced assessments. Clerk personnel stated that the \$32 million primarily represented amounts converted to community service pursuant to Section 938.30, Florida Statutes, and amounts satisfied by time served, which either the judges did not breakdown or for which the clerk's IT system did not have the capability to separately identify by category.
- Okeechobee Clerk personnel indicated that their IT system did not provide input codes necessary to properly accumulate and report assessments converted to community service under Section 938.30, Florida Statutes, for circuit criminal, county criminal, and circuit juvenile courts. Likewise, their IT system did not provide an input code necessary to properly accumulate and report assessments reduced to judgments or liens. As a result, clerk personnel reported all of these amounts as other converted or reduced assessments.
- The Broward Clerk did not report any converted or reduced assessments for any court type in any of the above categories. In response to our inquiry, clerk personnel indicated that "although there is an obligation to report any fines or fees which are converted to a civil judgment, our county is operating with an antiquated main frame which has technical issues that in turn create inconsistencies with the reporting of these categories."

As a result of these deficiencies, the converted or reduced amounts reported to the Legislature by the clerks noted above appear to be inaccurate and incomplete. Users of this information could potentially make incorrect decisions based on this data.

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**Recommendation:** The clerks noted above should establish effective procedures to ensure that they accurately report converted or reduced assessments as required by law. Until that time, the clerks should include information in their report that explains how and why the amounts reported are not accurate.

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### **Finding No. 12: Time and Effort Reporting**

Most clerks perform both court-related and county-related functions. The funding that clerks receive from the State can only be used for specific, authorized expenses that support court-related functions. These authorized expenses are primarily the salaries and related benefit costs of employees performing court-related activities.

Clerks request State appropriations to fund court-related functions through budget procedures specified in Section 28.36, Florida Statutes. In accordance with these procedures, clerks submit estimated budgeted expenditures to CCOC. For clerk personnel who spend portions of their time on court and county activities (referred to as "indirect employees" by the clerks), clerks must estimate the percentage of time and effort these employees will spend on court-related activities (funded by State revenues) and county-related activities (funded by local revenues).

The Broward Clerk performs only court-related functions. Personnel for the remaining 14 clerks reviewed indicated that they did not keep records documenting the actual time and effort that all indirect employees spent performing court-related and county-related activities during the period July 1, 2009, through February 28, 2011. Instead, the clerks developed various methods to estimate the time and effort of the indirect employees and used the estimates to allocate the actual salary of the indirect employees between court-related and county-related functions. For example:

- The Collier, Duval, and Okaloosa Clerks estimated the time and effort of the indirect employees based on the ratio of other clerk employees who worked solely on court-related functions to those that worked solely on county-related functions.
- The Pasco Clerk estimated the time and effort of indirect employees based on ratios of output data (e.g., court files processed, checks issued, journal entries recorded, and cash receipts processed).
- The DeSoto, Jackson, and Sumter Clerks estimated the time and effort of the indirect employees based on their knowledge of how the employees spent their time and developed ratios based on those estimates.

- Okeechobee Clerk personnel stated that five employees performed both court-related and county-related functions and that one of the five employees performed the majority of the court-related functions. For simplicity's sake, the clerk allocated the entire salaries of the other four employees to county-related functions and the entire salary of the one employee to court-related functions.
- The Hernando, Miami-Dade, Martin, Polk, Putnam, and Santa Rosa Clerks estimated the time and effort of the indirect employees using more than one of the methods described above.

While estimates of time and effort are acceptable for budgeting purposes, records documenting the actual time and effort of indirect employees are necessary to ensure that these activities are accurately funded from either State or local revenues. The records should reflect an after-the-fact distribution of the actual activity of each employee and should identify which activities were court-related and which activities were county-related. The records can then be used to adjust the allocation of the salaries and related benefits costs of the indirect employees that were initially based on estimates to a more accurate allocation based on the actual time and effort of the indirect employees. The records can also be used to adjust the estimates used in future budgets so that the Legislature has a more accurate picture of the costs involved in funding the clerks' court-related activities.

Most clerks administer Federal programs, such as the child support enforcement program, within their respective county and must already account for actual time of employees that perform activities charged to those programs, either by after-the-fact time and effort reporting or through random moment sampling. The same methods used for administering Federal programs could also be used for determining county-related vs. court-related time and effort.

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**Recommendation:** The clerks should keep records documenting the actual time and effort of employees who perform both court-related and county-related activities to ensure that these activities are accurately funded from either State or local revenues.

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#### Follow-up to Management's Response

*In their responses, most of the clerks took issue with this finding and indicated that tracking time for indirect positions would be costly and impractical. Many indicated that their allocations were in accordance with CCOC budget instructions and that the Department of Financial Services had reviewed their court-related budgets and noted no issues of concern. CCOC's budget instructions provide for allocating the indirect employees' salaries and benefits based on the ratio of other clerk employees that worked on court-related functions to those that worked solely on county-related functions. As noted in the finding, estimated hours spent on court-related functions using the methodology described in CCOC's budget instructions are acceptable for budgeting purposes but may significantly vary from actual hours spent on court-related functions and, as such, should be followed by a procedure to determine actual distribution of State and county activities. For example, the salary and benefits for an employee that processes mail could be allocated based on the mail count of court-related versus county-related mail processed for randomly selected days. However, allocating an employee's salary and benefits based on the ratio provided in CCOC's budget instructions may vary significantly from the employee's actual time spent processing court versus county mail.*

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#### RELATED INFORMATION

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On June 21, 2011, the Department of Highway Safety and Motor Vehicle's (Department) Inspector General issued a report (report No. 201011-03) on an examination of the clerks. In that report, the Inspector General indicated that since only summary information for posting revenues to specific funds is recorded in DOR's remittance portal, the Department did not have the ability to trace revenues received from DOR to specific traffic citations.

## OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations. We conducted this operational audit from March 2011 to September 2011 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The overall objectives of this operational audit were to:

- Obtain an understanding and make overall judgments as to whether the clerks' internal controls relevant to the assessment, collection, remittance, and reporting of selected court fees, provided for the accuracy of selected budget and performance data, and promoted and encouraged compliance with applicable laws, rules, and other guidelines; the economic and efficient operation of clerks; the reliability of records and reports; and the safeguarding of assets.
- Evaluate the clerks' performance in administering their assigned responsibilities related to the assessment, collection, remittance, and reporting of selected court fees, and the accuracy of selected budget and performance data, in accordance with applicable laws, rules, and other guidelines.
- Determine whether corrective actions have been taken for finding Nos. 2 through 8, included in our report No. 2005-019.
- Identify, pursuant to Section 11.45(7)(h), Florida Statutes, statutory and fiscal changes that may be included in the audit report or subsequently recommended to the Legislature.

The scope of this operational audit of the clerks is described in Exhibit A. This operational audit was limited to actions taken by the clerks relative to the assessment, collection, remittance, and reporting of court fees. Our audit included examinations of various records and transactions (as well as events and conditions) occurring during the period from July 1, 2009, through February 28, 2011.

To accomplish our audit objectives, it was not feasible to examine the operations of each of the 67 clerks. Therefore, we selected 15 clerks' operations for audit. The 15 clerks selected, as shown on Exhibit B, were chosen based on factors such as amount of court fee collections reported, variances in reported collections from year to year, and budget or performance measure reporting problems noted in our prior audits of the CCOC. Our audit methodology included obtaining an understanding of the internal controls for the 15 selected clerks. We interviewed selected personnel and, as appropriate, performed walk-throughs of relevant internal controls through observation and examination of supporting documentation and records. We applied additional audit procedures to determine that internal controls were working as designed, and to determine the clerks' compliance with the above-noted audit objectives. Specific information describing the work conducted to address the audit objectives is also included in the individual findings.

**AUTHORITY**

Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



David W. Martin, CPA  
Auditor General

**MANAGEMENT'S RESPONSE**

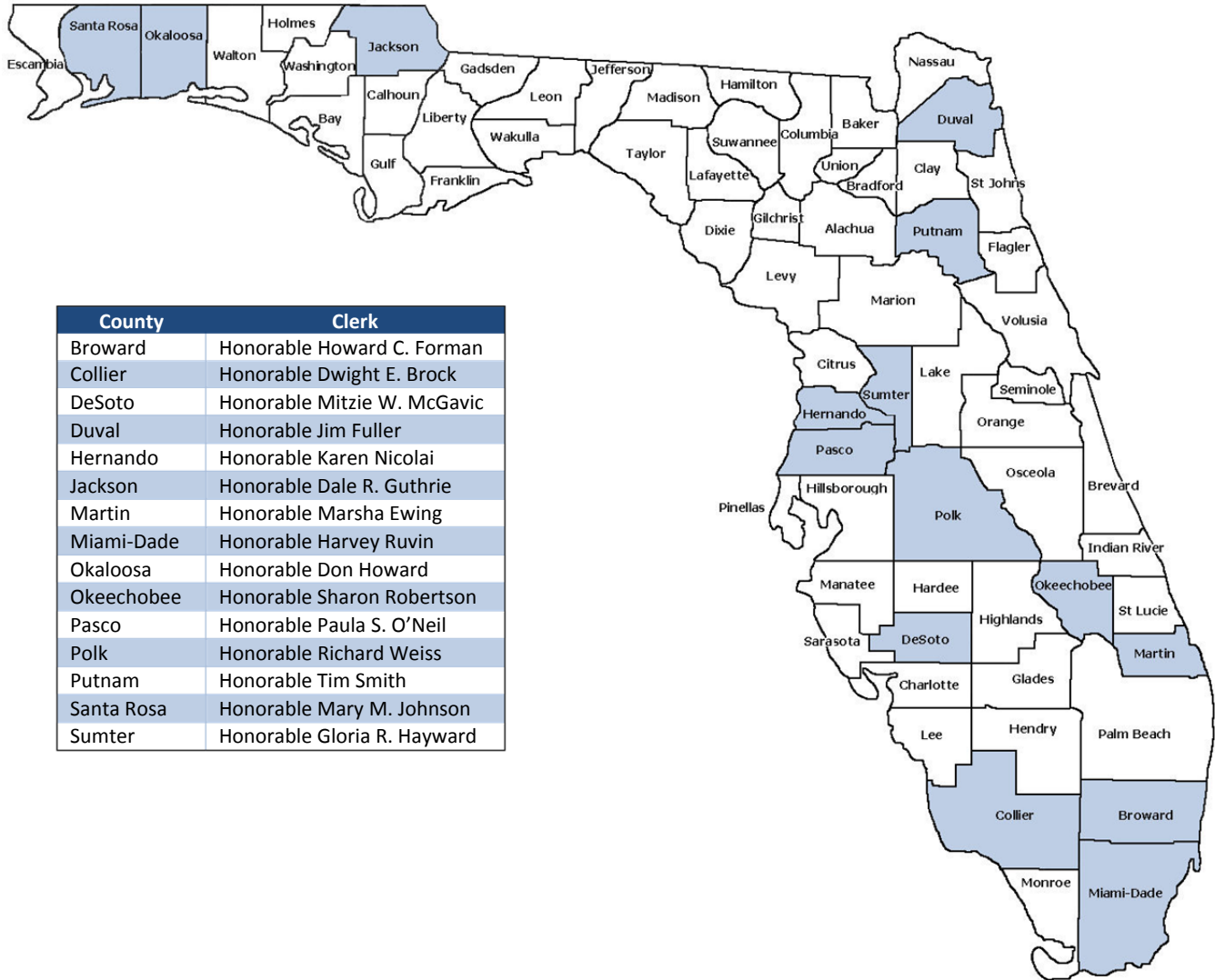
The 15 clerks that we selected for our review provided written responses to our preliminary and tentative findings. These responses are included in this report as Exhibit E.

**EXHIBIT A**  
**AUDIT SCOPE AND METHODOLOGY**

Scope (Topic)	Methodology
Fraud policies and related procedures.	Examined written fraud policies and related procedures, if any.
Risk assessment procedures.	Inquired as to whether the clerks performed and documented risk assessments relating to the assessment, collection, remittance, and reporting of court fees.
Laws authorizing the assessment, collection, and remittance of court fees.	Reviewed the State Constitution, Florida Statutes, and other publications relating to the assessment, collection, and remittance of court fees.
Receipting and recording court fees.	Examined written procedures, if any; conducted interviews of clerk personnel and walk-throughs of transactions; and tested receipting and recording for selected court cases.
Deferrals of court fee payments due to indigency status.	Examined written procedures, if any; conducted interviews of clerk personnel and walk-throughs of transactions; and tested adequacy of documentation supporting deferrals of court fee payments due to indigency for selected court cases.
Pursuing collections of past due amounts.	Examined written procedures, if any; conducted interviews of clerk personnel and walk-throughs of transactions; and tested collection procedures for selected court cases.
Remitting court fee collections to DOR, including partial payments of court fees received from individuals.	Examined written procedures, if any; conducted interviews of clerk personnel and walk-throughs of transactions; and tested remittances to DOR for selected court cases.
Salary and benefit expenses charged to the clerk’s State-funded court-related activities.	Obtained understanding, and assessed adequacy of, clerk procedures for documenting the time and effort of employees performing both court-related activities and county-related activities.
Investing unremitted court fees and remitting interest earnings to DOR.	Obtained understanding, and assessed adequacy of, relevant clerk procedures.
Reporting performance measures (case load activity) to CCOC.	Examined written procedures, if any, and conducted interviews of clerk personnel. For selected court cases, tested to see if cases were properly included in case detail provided by the clerks; performed analytical reviews of case detail; and compared case detail to case load activity reported by the clerks to CCOC.
Reporting performance measures (quarterly assessment and collection rate data) to CCOC.	Examined written procedures, if any; conducted interviews with clerk personnel; for selected court cases, tested to see if cases were properly included in quarterly assessment and collection data provided by the clerks; and performed analytical reviews of quarterly assessment and collection data.

**EXHIBIT B  
CLERKS SELECTED FOR REVIEW**

Our audit included a review of the operations of the 15 clerks shown below. These clerks served during the period July 1, 2009, through February 28, 2011.



County	Clerk
Broward	Honorable Howard C. Forman
Collier	Honorable Dwight E. Brock
DeSoto	Honorable Mitzie W. McGavic
Duval	Honorable Jim Fuller
Hernando	Honorable Karen Nicolai
Jackson	Honorable Dale R. Guthrie
Martin	Honorable Marsha Ewing
Miami-Dade	Honorable Harvey Ruvin
Okaloosa	Honorable Don Howard
Okeechobee	Honorable Sharon Robertson
Pasco	Honorable Paula S. O'Neil
Polk	Honorable Richard Weiss
Putnam	Honorable Tim Smith
Santa Rosa	Honorable Mary M. Johnson
Sumter	Honorable Gloria R. Hayward

**EXHIBIT C  
STATUTORILY AUTHORIZED FINES, FEES, AND OTHER CHARGES**

Statutory Citation	Description	Amount	State Fund
<b>Filing Fees and Court Costs (Chapters 27, 28, 34, 39, 44, 57, and 142, Florida Statutes; Chapter 2008-111, Laws of Florida)</b>			
27.52(1)	Application fee for petition for indigency	\$49	Indigent Criminal Defense Trust
27.52(7)(b)	25 percent of amounts recovered by State Attorney for fraudulent indigency claims in criminal proceedings	Variable	Justice Administrative Commission Grants and Donations Trust
27.52(7)(b)	75 percent of amounts recovered by State Attorney for fraudulent indigency claims in criminal proceedings	Variable	General Revenue
27.562	All funds collected pursuant to Section 938.29, Florida Statutes, if not already paid pursuant to Section 27.52(1)(d), Florida Statutes	Variable	Indigent Criminal Defense Trust
28.101(1)(a)	Additional charge for petitions for dissolution of marriage	\$5	Child Welfare Training Trust
28.101(1)(b)	Additional charge for petitions for dissolution of marriage	\$5	Displaced Homemaker Trust
28.101(1)(c)	Additional charge for petitions for dissolution of marriage	\$55	Domestic Violence Trust
28.101(1)(d)	Additional charge for petitions for dissolution of marriage	\$7.50	Displaced Homemaker Trust
28.101(1)(d)	Additional charge for petitions for dissolution of marriage	\$25	General Revenue
28.24(12)(e)	Additional service charge per page for recording, indexing, or filing, if the State becomes legally responsible for the costs of court-related technology needs	\$4	General Revenue
28.2401(1)	Portion of each filing fee collected under paragraphs (1)(a), (1)(c)-(i), and (1)(k) in probate matters	\$115	State Courts Revenue Trust
28.2401(3)	Additional service charge in probate matters	\$3.50	Court Education Trust
28.2401(3)	Additional service charge in probate matters	\$0.50	Department of Financial Services Administrative Trust
28.241(1)(a)1.a.	Filing fees for circuit civil action	\$80	General Revenue
28.241(1)(a)1.a.	Filing fees for circuit civil action	\$15	Mediation and Arbitration Trust
28.241(1)(a)1.a.	One-third (1/3) of filing fees in excess of \$100 for circuit civil action	Variable	Clerks of the Court Trust
28.241(1)(a)1.a.	Portion of the first \$265 in filing fees for circuit civil action	\$180	State Courts Revenue Trust
28.241(1)(a)1.a.	Portion of the first \$265 in filing fees for circuit civil action	\$1.50	Department of Financial Services Administrative Trust
28.241(1)(a)1.a.	Portion of the first \$265 in filing fees for circuit civil action	\$3.50	Clerks of the Court Trust

**EXHIBIT C (CONTINUED)**  
**STATUTORILY AUTHORIZED FINES, FEES, AND OTHER CHARGES**

Statutory Citation	Description	Amount	State Fund
28.241(1)(a)1.b.	Portion of the first \$165 in filing fees for circuit civil action	\$80	State Courts Revenue Trust
28.241(1)(a)1.b.	Portion of the first \$165 in filing fees for circuit civil action	\$1.50	Department of Financial Services Administrative Trust
28.241(1)(a)1.b.	Portion of the first \$165 in filing fees for circuit civil action	\$3.50	Clerks of the Court Trust
28.241(1)(a)1.c.&e.	Portion of additional \$4 filing fee for circuit civil action	\$3.50	Court Education Trust
28.241(1)(a)1.c.&e.	Portion of additional \$4 filing fee for circuit civil action	\$0.50	Clerks of the Court Trust
28.241(1)(a)2.d.	Filing fees for circuit civil action relating to real property or mortgage foreclosure	\$80	General Revenue
28.241(1)(a)2.d.	Filing fees for circuit civil action relating to real property or mortgage foreclosure	\$1.50	Department of Financial Services Administrative Trust
28.241(1)(a)2.d.	Filing fees for circuit civil action relating to real property or mortgage foreclosure	\$3.50	Clerks of the Court Trust
28.241(1)(a)2.d.	Filing fees for circuit civil action relating to real property or mortgage foreclosure	\$15	Mediation and Arbitration Trust
28.241(1)(a)2.d.	Filing fees for circuit civil action relating to real property or mortgage foreclosure	\$180	State Courts Revenue Trust
28.241(1)(a)2.d.	Filing fees for circuit civil action relating to real property or mortgage foreclosure	\$685	State Courts Revenue Trust
28.241(1)(a)2.d.	Filing fees for circuit civil action relating to real property or mortgage foreclosure	\$1,685	State Courts Revenue Trust
28.241(1)(c)1.	Counterclaim filing fee for circuit civil action	\$295 or \$395	General Revenue
28.241(1)(c)2.	Counterclaim filing fee for circuit civil action	\$295	General Revenue
28.241(1)(c)2.	Counterclaim filing fee for circuit civil action	\$100, \$605, or \$1,605	State Courts Revenue Trust
28.241(2)	Portion of \$280 (or \$80) appellate filing fee	\$80	General Revenue
28.241(6)	Fee for attorneys appearing pro hac vice in circuit court	\$100	General Revenue
34.041(1)(b)	First \$10 of the filing fee for county civil claims under Section 34.041(1)(a)7., Florida Statutes	\$10	Mediation and Arbitration Trust
34.041(1)(b)	First \$80 of up to \$295 filing fee for county civil claims of more than \$2,500	\$80	General Revenue
34.041(1)(b)	Portion of the filing fees for county civil claims under Section 34.041(1)(a)4., Florida Statutes	\$15	Mediation and Arbitration Trust
34.041(1)(b)	Portion of additional \$4 filing fee for county civil claims	\$3.50	Court Education Trust
34.041(1)(b)	Portion of additional \$4 filing fee for county civil action	\$0.50	Clerks of the Court Trust
34.041(1)(c)	Counterclaim filing fee for county civil action	\$295	General Revenue



**EXHIBIT C (CONTINUED)**  
**STATUTORILY AUTHORIZED FINES, FEES, AND OTHER CHARGES**

Statutory Citation	Description	Amount	State Fund
34.041(8)	Fee for attorneys appearing pro hac vice in county court	\$100	General Revenue
39.0134(2)	All attorney's fees and cost collected under Section 39.0134, Florida Statutes	Variable	Indigent Civil Defense Trust
44.108(1)	Filing fee on all circuit and county proceedings to fund mediation and arbitration services	\$1	Mediation and Arbitration Trust
44.108(2)	Fees collected for court-ordered mediation services provided by circuit court's mediation program	Variable	Mediation and Arbitration Trust
57.082(1)(d)	Application fee	\$45	Indigent Civil Defense Trust
57.082(7)(b)	25 percent of amounts recovered by State Attorney for fraudulent indigency claims in civil proceedings	Variable	Justice Administrative Commission Grants and Donations Trust
57.082(7)(b)	75 percent of amounts recovered by State Attorney for fraudulent indigency claims in civil proceedings	Variable	General Revenue
Chapter 2008-111, Laws of Florida	Additional Revenue pursuant to Chapter 2008-111, Laws of Florida	Variable	General Revenue
142.01(2)	All revenues received in the fine and forfeiture fund from court-related fees, fines, costs, and service charges	Variable	Clerks of the Court Trust
<b>Child Support Fees (Chapter 61, Florida Statutes)</b>			
61.181(2)(a)	Payment Fee for Non-Title IV-D, State Disbursement Unit cases	Variable	Child Support Enforcement Application and Program Revenue Trust
61.181(2)(b)1.	Payment Fee for Non-Title IV-D, State Disbursement Unit cases	Variable	Clerk of the Court Child Support Enforcement Collection System Trust
61.181(2)(b)1.	Payment fee for Non-Title IV-D, non-State Disbursement Unit cases	Variable	Clerk of the Court Child Support Enforcement Collection System Trust
61.181(2)(b)1.	Payment fee for Title IV-D cases	Variable	Clerk of the Court Child Support Enforcement Collection System Trust
<b>Motor Vehicles and Vessels (Chapters 316, 318, 322, and 327, Florida Statutes)</b>			
316.061 and 316.192	Additional fine for leaving the scene of an accident, reckless driving	\$5	Emergency Medical Services Trust
316.126	Fine for violation of Move Over Act	\$30	Crimes Compensation Trust
316.2065	Non-criminal penalty for each violation of bicycle regulations	\$15	State Transportation Trust
318.14(5)	Mandatory civil penalties imposed upon persons required to appear before a designated official pursuant to Sections. 318.19(1) or 318.19(2), Florida Statutes	\$500 and \$1,000	Department of Health Emergency Medical Services Trust
318.14(9)	Percentage of the civil penalty imposed under s. 318.18(3) if basic driver improvement school elected	Variable	State Courts Revenue Trust

**EXHIBIT C (CONTINUED)**  
**STATUTORILY AUTHORIZED FINES, FEES, AND OTHER CHARGES**

Statutory Citation	Description	Amount	State Fund
318.14(10)(b)	Portion of court costs per violation; operating a motor vehicle in violation of Section 316.646, Florida Statutes	\$1	Child Welfare Training Trust
318.14(10)(b)	Portion of court costs per violation; operating a motor vehicle in violation of Section 316.646, Florida Statutes	\$1	Juvenile Justice Training Trust
318.15	Service charge for reinstatement of driver's license (non-criminal)	\$22.50	Highway Safety Operating Trust
318.18(3)(h)	Civil penalty imposed per Section 318.18(3)(h), Florida Statutes	Variable	Emergency Medical Services Trust
318.18(5)(c)	Penalty for violation of Sections 316.172(1)(a) or 316.172(1)(b), Florida Statutes	\$65	Emergency Medical Services Trust
318.18(7)	Fine plus unpaid tolls due (Turnpike/Sunpass Service Center)	\$25 plus unpaid tolls	Audit and Warrant Clearing Trust
318.18(8)(a)	Portion of additional \$16 civil penalty for failure to comply with court requirements or pay specified penalties within 30 days	\$9.50	Highway Safety Operating Trust
318.18(8)(a)	Portion of additional \$16 civil penalty for failure to comply with court requirements or pay specified penalties within 30 days	\$6.50	Highway Safety General Revenue
318.18(11)(d)	Additional court cost for non-criminal traffic infractions (distributed pursuant to Section 938.01, Florida Statutes)	\$3	Additional Court Cost Clearing Trust
318.18(15)(a)1.	Remaining portion of \$158 civil penalty for violation of Section 316.075(1)(c)1. or 316.074(1), Florida Statutes	\$65	Department of Health Administrative Trust
318.18(15)(a)1.	Remaining portion of \$158 civil penalty for violation of Section 316.075(1)(c)1. or 316.074(1), Florida Statutes	\$30	General Revenue
318.18(15)(a)1.	Remaining portion of \$158 civil penalty for violation of Section 316.075(1)(c)1. or 316.074(1), Florida Statutes	\$3	Brain and Spinal Cord Injury Program Trust
318.18(16)	Failure to display sticker of authorization to transport farm workers – Department of Transportation	\$100	State Transportation Trust
318.18(16)	Failure to display sticker of authorization to transport farm workers – Department of Highway Safety and Motor Vehicles	\$100	State General Revenue
318.18(17)	Surcharge assessed on all Section 318.17, Florida Statutes, criminal offenses and all Chapter 316, Florida Statutes, noncriminal moving violations	\$3	State Agency Law Enforcement Radio System Trust
318.18(19)(a)	Portion of the \$10 fine for all noncriminal moving and nonmoving traffic violations under Chapters 316, 320, and 322, Florida Statutes	\$5	State Courts Revenue Trust

**EXHIBIT C (CONTINUED)**  
**STATUTORILY AUTHORIZED FINES, FEES, AND OTHER CHARGES**

Statutory Citation	Description	Amount	State Fund
318.18(19)(b)	Portion of the \$10 fine for all noncriminal moving and nonmoving traffic violations under Chapters 316, 320, and 322, Florida Statutes	\$3.33	State Attorneys Revenue Trust
318.18(19)(c)	Portion of the \$10 fine for all noncriminal moving and nonmoving traffic violations under Chapters 316, 320 and 322, Florida Statutes	\$1.67	Public Defenders Revenue Trust
318.18(20)	Penalty for violation of Section 316.191 or 316.192, Florida Statutes	\$65	Department of Health Emergency Medical Services Trust
318.21(1)	Portion of civil penalty per violation; operating a motor vehicle in violation of Section 316.646, Florida Statutes	\$1	Juvenile Justice Training Trust
318.21(1)	Portion of civil penalty per violation; operating a motor vehicle in violation of Section. 316.646, Florida Statutes	\$1	Child Welfare Training Trust
318.21(2)(a)	20.6 percent of remainder of civil penalties received pursuant to Chapter 318, Florida Statutes	Variable	General Revenue
318.21(2)(b)	7.2 percent of remainder of civil penalties received pursuant to Chapter 318, Florida Statutes	Variable	Emergency Medical Services Trust
318.21(2)(c)	5.1 percent of remainder of civil penalties received pursuant to Chapter 318, Florida Statutes	Variable	Additional Court Cost Clearing– Trust
318.21(2)(d)	8.2 percent of remainder of civil penalties received pursuant to Chapter 318, Florida Statutes	Variable	Brain and Spinal Cord Injury Program Trust
318.21(2)(d)e	2 percent of remainder of civil penalties received pursuant to Chapter 318, Florida Statutes	Variable	Audit and Warrant Clearing Trust DOR
318.21(4)	40 percent of additional fine under Section 318.18(3)(f), Florida Statutes for violation of Section 316.1301, Florida Statutes	Variable	Department of Education Grants and Donations Trust
318.21(5)	60 percent of additional fine under Section 318.21(3)(f), Florida Statutes, for violation of Section 316.1303, Florida Statutes	Variable	Audit and Warrant Clearing Trust
318.21(6)	Portion of civil penalty for each violation of Section 316.613 or 316.614, Florida Statutes	\$5	Epilepsy Services Trust
318.21(7)	Fines assessed under Section 318.18(3), Florida Statutes, for unlawful speed	Variable	Nongame Wildlife Trust
318.21(20)	Increase in fines assessed under Section 318.18(3), Florida Statutes, for unlawful speed	\$25	State Courts Revenue Trust
322.20(11)	Fees for driving record transcripts, copies, and record location assistance	Variable	Highway Safety Operating Trust
322.29	Service charge for reinstatement of driver’s license (criminal)	\$22.50	Highway Safety Operating Trust
327.35(9)	Fee for conviction of Section 327.35(1), Florida Statutes	\$57	Brain and Spinal Cord Injury Program Trust

**EXHIBIT C (CONTINUED)  
 STATUTORILY AUTHORIZED FINES, FEES, AND OTHER CHARGES**

Statutory Citation	Description	Amount	State Fund
327.35215(5)(a)	Violation of Section 327.352, Florida Statutes – failure to submit to blood/breath/urine test – arrest made by any State law enforcement officer	\$500	Marine Resources Conservation Trust
327.73(8)	All fees and civil penalties relating to non-criminal vessel infractions	Variable	Marine Resources Conservation Trust
327.73(11)(b)	Additional court cost for noncriminal vessel infractions	\$3	Additional Court Cost Clearing Trust
<b>Red Light Camera (Chapter 316, Florida Statutes)</b>			
316.0083(1)(b)3.a.	Portion of the \$158 for violation of Sections 316.074(1) or 316.075(1)(c)1., Florida Statutes	\$100	General Revenue
316.0083(1)(b)3.b.	Portion of the \$158 for violation of Sections 316.074(1) or 316.075(1)(c)1., Florida Statutes	\$70	General Revenue
316.0083(1)(b)3.a.	Portion of the \$158 for violation of Section 316.074(1) or 316.075(1)(c)1., Florida Statutes	\$10	Department of Health Administrative Trust
316.0083(1)(b)3.a.	Portion of the \$158 for violation of Sections 316.074(1) or 316.075(1)(c)1., Florida Statutes	\$3	Brain and Spinal Cord Injury Program Trust
<b>Natural Resources and Conservation (Chapters 258 and 379, Florida Statutes)</b>			
258.008	Prohibited activities; penalties for non-criminal infractions	Up to \$500	State Park Trust
379.407(1)	Penalties for violation of Chapter 379, Florida Statutes	Variable	Marine Resources Conservation Trust
379.407(2)	Additional penalties for major violations – saltwater fisheries	Variable	Marine Resources Conservation Trust
379.407(3)	Penalties assessed for use of illegal nets	Variable	Marine Resources Conservation Trust
379.407(5)	Additional penalties – saltwater products	Variable	Marine Resources Conservation Trust
379.2431	Penalties assessed – protection of marine animals	Variable	Marine Resources Conservation Trust
379.403	Fine for each criminal violation of Chapter 379, Florida Statutes, while in violation of Chapter 810, Florida Statutes (illegal hunting while trespassing)	\$250	State Game Trust
379.2203(3)	All fines, penalties, and bail forfeitures for violations regarding endangered or threatened species or violations of Sections 379.3014, 379.409, and 379.4115, Florida Statutes	Variable	Nongame Wildlife Trust
<b>Vital Statistics, Public Health, Tobacco (Chapter 382, Florida Statutes)</b>			
382.023	Fee for filing a final judgment of dissolution of marriage – cost of records maintenance	57 percent of up to \$10.50	Planning and Evaluation Trust
403.1651(2)(a)	Moneys recovered by the State as a result of actions against any person for violation of Chapters 373 or 403, Florida Statutes; environmental control	Variable	Ecosystem Management and Restoration Trust

**EXHIBIT C (CONTINUED)**  
**STATUTORILY AUTHORIZED FINES, FEES, AND OTHER CHARGES**

Statutory Citation	Description	Amount	State Fund
403.413(6)(a)	Portion of \$100 civil penalty for dumping litter in violation of Section 403.413(4), Florida Statutes	\$50	Solid Waste Management Trust
569.11(6)	80 percent of civil penalties received for underage purchase or possession of tobacco products	Variable	Projects, Contracts, and Grants Trust
<b>Deceptive and Unfair Trade Practices (Chapter 501, Part 2, Florida Statutes)</b>			
501.2075	Civil penalty assessed against persons found to have committed deceptive and unfair trade practices	Up to \$10,000	General Revenue
501.2077	Civil penalty assessed against persons whose deceptive and unfair trade practices victimized or attempted to victimize senior citizens or handicapped persons	Up to \$15,000	Department of Legal Affairs Revolving Trust
501.2101	Moneys received for attorney's fees and costs of investigation or litigation in consumer protection proceedings, if the action is brought by the Department of Legal Affairs	Variable	Department of Legal Affairs Revolving Trust
501.2101	Moneys received for attorney's fees and costs of investigation or litigation in consumer protection proceedings, if the action is brought by a State attorney	Variable	Consumer Frauds Trust
<b>Domestic Relations (Chapter 741, Florida Statutes)</b>			
741.01(2)	Increased fee for marriage license	\$25	Domestic Violence Trust
741.01(3)	Additional increased fee for marriage license	\$7.50	Displaced Homemaker Trust
741.01(4)	Additional fee upon receipt of application for marriage license	\$25	General Revenue
741.02	Additional fee upon receipt of application for marriage license; defrays part of cost of maintaining marriage records	\$4	Planning and Evaluation Trust
741.30(9)(a)	Assessment or fine collected to enforce compliance with domestic violence injunction	Variable	Domestic Violence Trust
<b>Crimes and Criminal Procedure (Chapters 775 and 960, Florida Statutes)</b>			
775.083(1)(g)	Fine imposed when adjudication is withheld	Variable	General Revenue
775.0835(1)	Fine for guilty or nolo plea, or conviction of misdemeanor or felony resulting in death	Up to \$10,000	Crimes Compensation Trust
775.089	Restitution: Loss, damage or injury	Variable	State Game Trust
960.17(4)	Obligation of restitution when award constitutes debt owed to State; victim compensation	Variable	Crimes Compensation Trust
960.28	Restitution equal to compensation paid to medical provider for cost of victim's initial forensic physical exam	Variable	Crimes Compensation Trust
960.293	Payment for damages and losses for incarceration costs and other correctional costs	(\$50 per day up to \$250,000)	Crimes Compensation Trust

**EXHIBIT C (CONTINUED)**  
**STATUTORILY AUTHORIZED FINES, FEES, AND OTHER CHARGES**

Statutory Citation	Description	Amount	State Fund
<b>Additional Court Costs (Chapter 938, Florida Statutes)</b>			
938.01(1)(a)	Additional court cost assessed against persons convicted for violation of State penal or criminal statute or a municipal or county ordinance	\$3	Additional Court Cost Clearing Trust
938.03(4)	Additional court cost assessed against any person pleading guilty or nolo contendere to, or being convicted of or adjudicated delinquent for, any felony or misdemeanor	\$49	Crimes Compensation Trust
938.04	5 percent of additional imposed fine surcharge/court cost for any criminal offense	Variable	Crimes Compensation Trust
938.06	Additional court cost for any criminal offense	\$17	Crime Stoppers Trust
938.07	Portion of additional \$135 court cost for each violation – driving or boating under the influence	\$25	Emergency Medical Services Trust
938.07	Portion of additional \$135 court cost for each violation – driving or boating under the influence	\$50	Department of Law Enforcement Operating Trust
938.07	Portion of additional \$135 court cost for each violation – driving or boating under the influence	\$60	Brain and Spinal Cord Injury Program Trust
938.08	Portion of additional \$201 surcharge for violation of certain sections of Chapters 784 and 794, Florida Statutes, to fund programs in domestic violence	\$85	Domestic Violence Trust
938.085	Portion of additional \$151 surcharge for violation of certain sections of Chapters 784 and 794, Florida Statutes, to fund rape crisis centers	\$150	Rape Crisis Program Trust
938.10	Portion of additional \$151 court cost imposed for certain crimes	\$100	Grants & Donations Trust
938.10	Portion of additional court cost imposed for certain crimes	\$50	Grants & Donations Trust
938.23(2)	Additional assessment in amount up to the amount of fine authorized for drug or alcohol offense	Variable	Grants & Donations Trust
938.25	Additional court cost for guilty or nolo contendere plea, or conviction for violation of Section 893.13, Florida Statutes, – controlled substances	\$100	Department of Law Enforcement Operating Trust
938.27(7)	Investigative costs recovered – Department of Agriculture and Consumer Services	Variable	Agricultural Law Enforcement Trust
938.27(7)	Investigative costs recovered – Office of the Auditor General	Variable	Office of the Auditor General Operating Trust
938.27(7)	Investigative costs recovered – Department of Business and Professional Regulation	Variable	Alcoholic Beverage and Tobacco Refunds
938.27(7)	Investigative costs recovered – Department of Environmental Protection	Variable	Inland Protection Trust
938.27(7)	Investigative costs recovered – Department of Financial Services	Variable	Department of Financial Services Operating Trust

**EXHIBIT C (CONTINUED)**  
**STATUTORILY AUTHORIZED FINES, FEES, AND OTHER CHARGES**

Statutory Citation	Description	Amount	State Fund
938.27(7)	Investigative costs recovered – Fish and Wildlife Conservation Commission	Variable	Fish and Wildlife Conservation Commission Operating Trust
938.27(7)	Investigative costs recovered – Department of Highway Safety and Motor Vehicles	Variable	Restitution for Investigative Cost
938.27(7)	Investigative costs recovered – Department of Law Enforcement	Variable	Forfeiture and Investigative Support Trust
938.27(7)	Investigative costs recovered – Department of Revenue	Variable	Audit & Warrant Clearing Trust
938.27(7)	Investigative costs recovered – Office of Statewide Prosecutor	Variable	Office of Statewide Prosecutor Operating Trust
938.27(7)	Investigative costs recovered – Department of Transportation	Variable	State Transportation Trust
938.27(8)	Any costs collected by State Attorney (Section 938.27, Florida Statutes, – judgment for costs on conviction)	Variable	State Attorneys Grants and Donations Trust

Source: Department of Revenue *Clerk of Court Revenue Remittance System Crosswalk, 2010*, and Florida Statutes

**EXHIBIT D**  
**COURT FEES RECEIVED BY DOR FROM THE CLERKS OF THE CIRCUIT COURTS - STATEWIDE**  
**FOR THE PERIOD JULY 1, 2009, THROUGH FEBRUARY 28, 2011**

State Fund	Total	Percent
Clerks of the Court Trust	\$ 749,530,428	38.99
State Courts Revenue Trust	552,527,317	28.74
General Revenue	317,934,507	16.54
Crimes Compensation Trust	32,557,749	1.69
Mediation and Arbitration Trust	28,617,903	1.49
Highway Safety Operating Trust	26,941,767	1.40
Indigent Criminal Defense Trust	23,173,032	1.21
Additional Court Costs Clearing Trust	23,102,624	1.20
State Attorneys Revenue Trust	22,309,670	1.16
State Attorney Grants and Donations Trust	17,273,312	0.90
Domestic Violence Trust	14,091,479	0.73
Emergency Medical Services Trust	12,690,996	0.66
Highway Safety General Revenue	12,475,025	0.65
Brain and Spinal Cord Injury Rehabilitation Trust	10,676,800	0.56
State Agency Law Enforcement Radio System Trust	8,692,722	0.45
Department of Health Administrative Trust	7,764,167	0.40
Public Defenders Revenue Trust	6,673,629	0.35
Audit and Warrant Clearing Trust	5,896,032	0.31
Court Education Trust	5,805,032	0.30
Crime Stoppers Trust	5,665,337	0.29
Brain and Spinal Cord Injury Program Trust	5,436,250	0.28
Child Welfare Training Trust	4,216,551	0.22
Nongame Wildlife Trust	3,877,281	0.20
Juvenile Justice Training Trust	3,487,502	0.18
Department of Law Enforcement Operating Trust	3,403,660	0.18
Displaced Homemaker Trust	3,172,585	0.17
Epilepsy Services Trust	2,788,077	0.15
Rape Crisis Program Trust	2,260,695	0.12
Planning and Evaluation Trust	1,915,948	0.10
Department of Financial Services Administrative Trust	1,469,390	0.08
Child Support Enforcement Grants and Donations Trust	1,141,533	0.06
Marine Resources Conservation Trust	1,088,591	0.06
Child Support Enforcement Application and Program Revenue Trust	911,451	0.05
Clerk of Court Child Support Enforcement Collection System Trust	699,176	0.04
Child Support Enforcement Federal Grants Trust	627,755	0.03
Department of Health Emergency Medical Services Trust	449,859	0.02
Office of Statewide Prosecutor Grants and Donations Trust	221,613	0.01
State Transportation Trust	213,934	0.01
Grants and Donations Trust	151,120	0.01
Solid Waste Management Trust	123,559	0.01
State Game Trust	93,999	0.00
Projects, Contracts, and Grants Trust	92,985	0.00
Forfeiture and Investigative Support Trust	88,147	0.00
Indigent Civil Defense Trust	74,800	0.00
Department of Financial Services Operating Trust	50,512	0.00
State Park Trust	49,260	0.00
Restitution for Investigative Cost	44,597	0.00
Fish and Wildlife Conservation Commission Operating Trust	37,447	0.00
Justice Administrative Commission Grants and Donations Trust	32,002	0.00
Department of Education Grants and Donations Trust	9,419	0.00
Department of Environmental Protection Operating Trust	4,358	0.00
Alcoholic Beverage and Tobacco Refunds Trust	4,152	0.00
Agricultural Law Enforcement Trust	1,371	0.00
Inland Protection Trust	1,311	0.00
Ecosystem Management and Restoration Trust	440	0.00
<b>TOTAL</b>	<b>\$ 1,922,640,858</b>	<b>100.00</b>

Source: Department of Revenue



EXHIBIT E  
CLERK RESPONSES



**HOWARD C. FORMAN**  
CLERK OF CIRCUIT AND COUNTY COURT  
17TH JUDICIAL CIRCUIT

201 SOUTHEAST 6TH STREET / RM 136  
BROWARD COUNTY COURTHOUSE  
FORT LAUDERDALE, FLORIDA 33301  
TELEPHONE: (954) 831-5504

December 23, 2011

David W. Martin  
Auditor General  
State of Florida  
401 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Mr. Martin:

Below are Broward's responses to the Auditor General's Preliminary and Tentative Findings Report on the assessment, collection, and remittance of selected court-related fines, fees, and other charges.

Finding No.1: Various conflicts and inconsistencies exist in laws relating to court fees.

Response to Finding No. 1. Broward agrees that conflicts and inconsistencies relating to court fees exist in the Florida statutes and that these issues should be addressed by the legislature.

Finding No. 2: The clerks we reviewed had either not performed or not documented a recent risk assessment relating to the processes of assessing, collecting, remitting, and reporting court fees.

Response to Finding No. 2: Broward provided two documents to the Auditor General; (1) a risk assessment that was generated by our insurance brokers which focused on liability issues and reviewed work processes, and (2) a report from my internal audit staff who conducted interviews with division management and made notations to improve current work processes. Broward notes that the risk assessments should be performed on a regular basis and we will be implementing a policy that requires a periodic review of those assessments.

Finding No. 3: Most of the clerks we reviewed had not established comprehensive, written policies and procedures that covered one or more critical functions relating to assessing, collecting, remitting, and reporting of court fees.

Response to Finding No. 3: Broward uses a process that requires documentation from the operational divisions to be sent to the IT department for programming the collections tracking system to meet statutory requirements for assessments and collections. This document contains the specifications on the legislative changes and provides a mechanism to test the program changes. These documents are preserved and become an auditable record. A formal policy/procedure is being developed to direct the operational divisions in this function. Additionally, Broward is developing a policy/procedure to capture the specifications which agree with CCOC guidelines regarding the reporting of new cases, reopened cases and appealed cases which comport to the new case maintenance system architecture. Broward will develop policy/procedure regarding collection rate performance measures which comport with the CCOC guidelines. Finally, Broward will develop policy/procedure to document the process for reporting converted or reduced assessments as required under Section 28.246, Fla. Statutes.

Finding No. 4: Most of the clerks we reviewed had not developed comprehensive fraud policies.

Response to Finding No. 4: Broward provided comprehensive fraud policies to the Auditor General and, therefore, no response is required.

Finding No. 5: For most of the clerks we reviewed, we noted control deficiencies relating to the assessment, collection, and remittance of court fees.

Response to Finding No. 5: Broward was identified as not requiring an employee to log collections received through the mail at the earliest point in the collection process. Given the volume of mail correspondence in our office, Broward is unable to dedicate staffing resources to specifically log mailed payments. The collections tracking system does provide a historical record of the payments receipted, including those received through the mail. However, Broward is investigating the use of document management to resolve the mail logging issue and will perform a risk assessment of logging mail as staffing resources permit.

Finding No. 6: Some of the clerks we reviewed did not pursue the collection of past due court fees, contrary to Section 28.246, Florida Statutes.

Response to Finding No. 6: Broward has been working to update the collections tracking system's programming to comply with Section 28.246, Florida Statutes. Within the third quarter of SFY 2011-12, Broward anticipates that all issues regarding the sending of delinquent criminal case collections to the collection agency will be resolved. Broward does submit to the collection agency traffic infraction cases in which the defendant went to court, was given time to pay, but failed to comply with the court's order. Traffic cases in which the defendant failed to comply within 30 days from the date of the ticket and failed to go to court are now being prepared to be sent to the collection agency. Likewise, traffic cases in which the defendant has been placed on a payment plan and failed to comply with the terms of the plan are being prepared to be sent to the collection agency. Programmatic changes and testing for sending all delinquent criminal case collections to the collection are expected to be resolved by no later than June 2012.

Finding No. 7: Some of the clerks we reviewed did not remit partial payments of court fees in accordance with the priority established by Section 28.246(5), Florida Statutes.

Response to Finding No. 7: Broward does remit partial payments of court fees in accordance with the priority established by Section 28.246(5), Florida Statutes, and, therefore, no response is required.

Finding No. 8: : We noted many instances in which clerks we reviewed did not report court fee collections to the Department of Revenue using the correct statutory citation categories, resulting in incorrect information for data analysis purposes or moneys deposited into incorrect State funds.

Response to Finding No. 8: Broward correctly reports court fee collections to the Department of Revenue, and, therefore, no response is required.

Finding No. 9: Some of the clerks we reviewed did not remit interest earned on court fee collections to the Department of Revenue, contrary to Section 28.245, Florida Statutes. Other clerks remitted the interest earned net of related bank charges without apparent authority to do so.

Response to Finding No. 9: Broward does not invest court-related collections except for specific court ordered deposits which direct the clerk to place funds into an interest bearing accounts. Interest earned on these specific deposits are distributed as reflected in the court order.

Finding No. 10: Some of the clerks we reviewed inconsistently reported assessment and collection amounts to the Florida Clerks of Court Operations Corporation (CCOC). Also, there were instances in which some of the clerks we reviewed did not maintain records to support amounts reported to CCOC.


Response to Finding No. 10: Broward's storage mechanism used for maintaining case details to support assessments and collections is electronic. The size of that electronic file (which contained over 3 million records) and the process used to extract that data may have contributed to this finding. However, data on assessments and collections was kept and made available to the auditors when requested. Broward will work to develop a process that produces a "hard copy" report that contains the case details for quarterly assessments and collections as staffing resources permit.

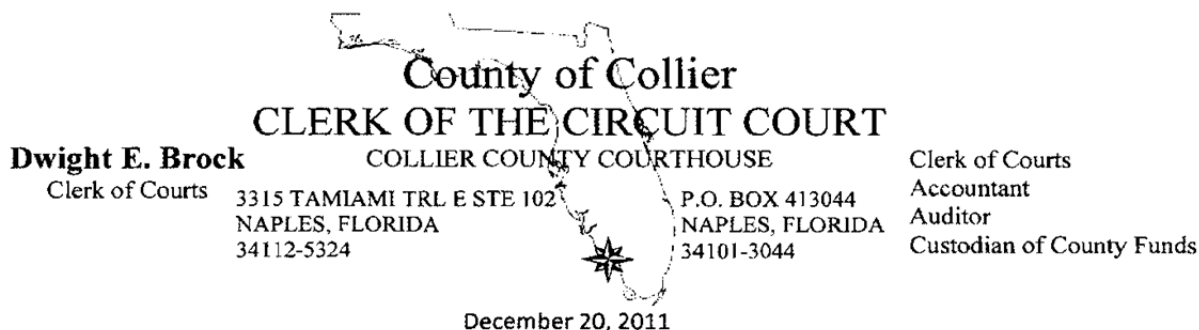
Finding No. 11: Some of the clerks we reviewed did not have the systems capability to properly identify and report converted or reduced assessments of court fees to the Legislature.

Response to Finding No. 11: Broward is working on programming needed to report the reduced/converted fines in circuit criminal and county criminal cases. The new case maintenance system Broward recently implemented will permit the reporting of converted or reduced assessments, unlike the legacy case maintenance system which only allowed a user to note in a text field the converted or reduced assessment. Broward anticipates being able to report reduced/converted fines for the county fiscal year ending September 30, 2012.

Finding No. 12: Most of the clerks we reviewed had employees who performed both court-related and county-related activities, and the salary and benefits of these employees were allocated partially to the State (court-related) and partially to the county (county-related). However, the clerks indicated that these employees did not keep records documenting the actual time and effort they spent on each of these activities to support the allocations of their salaries and benefits.

Response to Finding No. 12: Broward does not perform county-related activities, and, therefore, no response is required.

Respectfully,  
  
Howard C. Forman  
Broward County Clerk of Courts



David W. Martin  
 Auditor General  
 State of Florida  
 401 Claude Pepper Building  
 111 West Madison Street  
 Tallahassee, Florida 32399-1450

Mr. Martin:

Pursuant to Florida Statute 11.45(4)(d), we submit our responses to the findings and attachments incorporated and made a part hereof listed in your letter dated December 2, 2011. Staffing and budget reductions continue to present challenges to operations. We remain committed to serving the citizens of Collier County and meeting the high standards they expect.

Responses to Auditor General Findings:

**Finding 1: Conflicts and Inconsistencies in Laws Relating to Court Fees**

Response: The Collier Clerk agrees there are several inconsistencies in the Florida Statutes. These should all be corrected by the Legislature. These conflicts are not findings attributable to Clerk's offices.

**Finding 2: Risk Assessment Procedures**

Response: There are several controls to mitigate risk within the Clerk's office.

- a) External auditors – As part of our annual audit the external auditors of Ernst & Young perform system audits and internal control audits through direct testing and employee interviews and process documentation reviews.
- b) Internal auditors – This department was re-established this year after litigation with the County was settled. The Internal Audit department is responsible for reviewing process and internal controls to ensure the integrity of the activities of the Clerk's office.
- c) Accounting department – routinely performs transactional testing and monthly reviews of general ledger postings to ensure proper recordation of activities. The department also works with other Clerk departments when implementing software and procedural practices for internal controls.
- d) Management Information Systems - the MIS department works with software vendors and internal departments to ensure the safety of all Clerk databases. Collier County last performed a separate security audit in June, 2007 at a cost of \$38,900. Due to budget constraints and staffing issues we have had to reduce our expenditures. Collier County has an independent security audit budgeted for this FY12.

**Finding 3: Written Policies and Procedures**

Response: Collier County supplied numerous policy and procedure copies during the audit. We rely on automated systems for many of our functions. These systems have been thoroughly tested upon implementation to comply with the Florida Statutes and business rules for collecting, remitting and processing payments.

- a) The Clerk's office cannot assess court fees or costs, we can only record the decisions of the judiciary.
- b) Collier County follows Florida Statutes 27.52 for indigency determinations.
- c) Collier County follows Florida Statutes 28.246 for collecting past due amounts. We currently have contracts with two collection agencies to pursue amounts that remain outstanding.
- d) Collier County follows the Florida Statutes for remitting payments to the DOR.
- e) All software and programming for Article V reporting for new cases, re-opened cases and appeals have been written to conform to the business rules provided by the Florida Clerk of Courts Operation Corporation.
- f) Same as item e above for the quarterly collection reports.
- g) Collier has followed the business rules for the annual collections report as provided by the Florida Association of Court Clerks.

We will enhance our written procedures in 2012, however reliance on statute and business rules established by FLCOC or FACC are readily available by staff for guidance.

**Finding 4: Fraud Policies**

Response: As provided in August during our audit, the Fraud Policy has been formalized and incorporated into the employee manual. This policy was distributed to all employees and a public fraud site was updated on the Clerk's webpage. Copies of the policy and webpages are included.

The Internal Audit department has been designated as the point of contact for external reports of fraud and the division directors and Clerk are designated as the point of contact for internal fraud reporting.

**Finding 5: Collections Controls Deficiencies**

Response: As part of our annual external audit, Ernst & Young includes testing of our cashiering systems currently in place to verify processes and accuracy. They begin with a review of the documented process and follow the flow of the receipt through to the payment to the DOR. There have not been any adverse findings of this minor risk to date.

While we do not log incoming collections at the mail counter, cost/benefit analysis of the potential risk versus cost of added personnel we believe is mitigated by both the external and compensating internal procedures. All cash payments received through the mail are as a matter of process counted and verified by a second clerk. This money is then taken directly to the cashier for receipt into the proper system.

Additionally there is an external check of our system through suspension of the Driver's License and use of collection agencies. When fines remain unpaid the individual's license is suspended. If there were any employee theft of a payment, when the State notifies the individual of their suspension, they would call the Clerk's office to find the reason their payment was not applied. All assessments remaining open after 90 days are sent to a collection agency. Notification of non-payment by the collection agency will also serve as a cross-check to our system to verify proper payment processing.

We believe the above documented processes adequately compensate for the minimal risk potential.

**Finding 6: Past Due Collection Efforts**

Response: Collier was not identified in this finding. Collier has contracts with two collections agencies for the collection of past due balances on cases. Collier follows Statute 28.246 for guidelines on collecting past due amounts. Collier also negotiated the amount of compensation for the collection agency to only allow a 25% fee added for the collection services (Florida Statute 28.246 allows for up to 40% for the fee.)

**Finding 7: Partial Payment Deficiencies**

Response: Collier was not identified in this finding. Collier remits partial payments as they are received each month to the DOR as stated in the FL Statute 28.245. The programming in our case management software distributes the partial payments as prescribed by statute.

**Finding 8: Remittance Errors**

Response: Collier was not identified in this finding. The procedure for remitting to the DOR in Collier has many checks and balances to ensure accuracy. The fees are coded to our case management software and reviewed by our Courts Director. The collections amounts are prepared for entry into the DOR website by the Assistant Supervisor in Accounting and the remittance paperwork is reviewed by the Fiscal Operations Manager before input. Once input into the DOR website the payment information is entered into the general ledger by the accounts payable department. Payments are routinely reviewed by accounting to catch any errors.

**Finding 9: Investing Court Fee Collections Pending Remittance to DOR**

Response: Collier was not identified in this finding. Collier has remitted all interest earned on court funds to the State as stated in the Attorney General's Opinion 75-241A. Collier does not net interest earnings against bank service charges. The service charges are an expense for court operations. This was validated with the FLCCOC in May, 2010.

**Finding 10: Performance Reporting**

Response: Collier was not identified in this finding. Collier is reporting all collection data as prescribed in the business rules from the FLCCOC. We maintain the detail record reports that validate the numbers on for each of the associated collection reports.

**Finding 11: Reporting Converted or Reduced Assessments**

Response: Collier was not identified in this finding. Collier has reported converted and reduced assessments since the annual collection report began. As noted with the performance reporting we have the detailed reports to validate our information provided on the report.

**Finding 12: Time and Effort Reporting**

Response: The majority of Collier Clerk positions (110 FTEs) are directly allocated to the court or non-court functions based upon assignment. For those positions acting in an administrative capacity (Administration, Accounting and Records Management - 15 FTEs) Collier County estimates the time for our overhead positions to be allocated based on the ratio of the number of people performing court related activities to the number of

people performing non-court related activities. With the current budget and personnel constraints it would be impractical and uneconomical to require individuals to track their time for an entry to adjust the cost allocation.

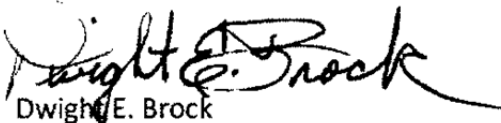
The method employed by Collier County has been audited and reviewed annually by our external auditors and twice by the Chief Financial Officer of the State of Florida (2005 and 2009). In the findings from the State stated, "Based upon our review, we found the Clerk's budgeting practices and expenditure and revenue methodologies for State funds to be efficient and accurate."

Clerks cannot amend their court related budgets so an entry that would change the actual allocation away from the budget method could cause a budget shortfall in either the court or the non-court budgets.

Our goal is to provide the most efficient; cost effective service possible to everyone we serve. Because of the budget restrictions of the past several years we have had to continually reevaluate the most economical uses of those resources. We believe the systems we have in place most effectively achieve this goal.

Thank you for your time and effort involved in this audit and for considering our responses.

Respectfully,

A handwritten signature in black ink, appearing to read "Dwight E. Brock". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Dwight E. Brock  
Clerk of the Circuit Court

Attachments

MITZIE W. McGAVIC  
DESOTO CLERK OF COURTS  
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ARCADIA, FL 34266  
863-993-4876  
mitzie.mcgavic@desotoclerk.com



December 20, 2011            AMENDED January 23, 2012

Mr. David W. Martin, Auditor General  
401 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Re: Auditor General Audit Responses

Dear Mr. Martin:

The following statements are submitted in response to the findings and recommendations in conjunction with the recent audit.

FINDING No. 1: CONFLICTS IN LAW

Not applicable to DeSoto County Clerk of Circuit & County Courts (DeSoto), no response needed.

FINDING No. 2: RISK ASSESSMENT

DeSoto performs periodic risk assessments, however, they are not formally documented. Given the control environment, which is established by having Senior Management on site and actively involved in managing operations, we do not agree that formally documenting the risk assessment process is cost beneficial.

FINDING No. 3: WRITTEN POLICIES AND PROCEDURES

DeSoto does not agree that having additional written policies are needed. We have written policies in place. Each Deputy Clerk has a manual at their desks plus access to and use of FACC's Best Practices, Florida Statutes, Laws of Florida, Administrative Orders, County Ordinances and Rules of Procedure. Compiling the above into one manual is redundant.



David W. Martin, Auditor Gen.  
December 20, 2011  
Page Two

FINDING No. 4: FRAUD POLICIES

DeSoto has some written fraud policy, but upon the AG's recommendation, has added additional information.

FINDING No. 5: COLLECTION CONTROL DEFICIENCIES

Immediately endorsing a check upon receipt is not feasible due to multiple bank accounts being used. The logging in of each payment is also not feasible due to level of staffing and budget constraints. We have evaluated the risks and the associated compensating controls, and determined that the compensating controls provide reasonable assurance that the collection process is materially accurate. Checks are made payable to DeSoto Clerk of Courts, thus restricting deposits already. Additionally, the bank does not want multiple endorsements on the back of checks.

FINDING No. 6: PAST DUE COLLECTION EFFORTS

Not applicable to DeSoto, no response needed.

FINDING No. 7: PARTIAL PAYMENT DEFICIENCIES

Not applicable to DeSoto, no response needed.

FINDING No. 8: REMITTANCE ERRORS

Not applicable to DeSoto, no response needed.

FINDING No. 9: INVESTING COURT REVENUES

Not applicable to DeSoto, no response needed.

FINDING No. 10: PERFORMANCE REPORTING

Not applicable to DeSoto, no response needed.

FINDING No. 11: REPORTING CONVERTED/REDUCED ASSESSMENTS

Not applicable to DeSoto, no response needed.

David W. Martin, Auditor Gen.  
December 20, 2011  
Page Three

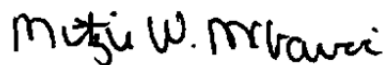
FINDING No. 12: TIME AND EFFORT REPORTING

Workload, time availability, staffing and budgetary constraints, and mandatory timeliness requirements would make each Deputy Clerk keeping a minute-by-minute log not cost beneficial. All Deputy Clerks are required to help customers including answering questions when possible for divisions other than their own. This could mean taking a phone call by the mortgage foreclosure (court) Deputy Clerk about a recorded deed. She would answer questions that she can rather than or before transferring the call to the recording department (non court).

Additionally the Clerk tracks workload for those employees who are split in job between court and noncourt and those in the noncourt section (approximately 6 employees) on a monthly basis and prepares a worksheet documenting this.

This formula is based upon the methodology in CCOC's budget instructions.

Sincerely,



Mitzie W. McGavic  
DeSoto Clerk of Courts



**JIM FULLER**  
CLERK OF THE CIRCUIT COURT

## Clerk of the Circuit & County Courts

DUVAL COUNTY  
JACKSONVILLE, FLORIDA 32202

TELEPHONE: 904-630-2039  
FACSIMILE: 904-630-2950

December 15, 2011

David W. Martin, CPA  
Auditor General-State of Florida  
401 Claude Pepper Building  
111 West Madison Street  
Tallahassee, FL 32399-1450

In response to the recent audit, the Duval County Clerk's office offers the following comments:

Finding No.2: Risk Assessment Procedures – periodic assessments are made of the listed activities though no documentation has been kept. Documentation will be provided for the future based upon availability of staffing resources.

Finding No. 3: Written Policies and Procedures – written procedures are in the process of being created for the areas noted based upon availability of staffing resources.

Finding No. 4: Fraud Policies – comprehensive policies are to be put in place based upon availability of staffing resources.

Finding No. 5: Collection Control Deficiencies – the Clerk has had two employees performing this function historically. Currently, due to staffing limitations and a significant decrease in mail processing due to internet and phone services, the cost/benefit has not proven to be justified.

Finding No. 8: Remittance Errors – the system errors noted have been corrected and a continual review of fee formulas is ongoing.

Finding No. 9: Investing Court Fee Collections Pending Remittance to DOR – retro-active corrections have been made and total settlement will be accomplished within a few months.

Finding No. 12: Time and Effort Reporting – this finding is misleading. The Clerk does adjust for specifically identifiable activities of personnel involved in court and non-court activities and maintains a record of time spent. However, the charge that somehow Indirect Costs associated with administrative burdens should be specifically identified is unjustified. A reasonable calculation that is made throughout the year against identified administrative costs provides a rate based upon headcount. The cost items are not easily nor readily distinguishable with regards to time spent on court as opposed to non-court activities. The method used by the Clerk is in agreement with OMBC A-87 which specifically states "*indirect costs are those that have been incurred for common or joint purpose benefiting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved.*" Our position is that our current



# Clerk of the Circuit & County Courts

DUVAL COUNTY  
JACKSONVILLE, FLORIDA 32202

**JIM FULLER**  
CLERK OF THE CIRCUIT COURT

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method of spreading indirect costs between the court and non-court functions is reasonable and according to sound accounting practice.

Jim Fuller  
Duval County Clerk of Courts



# KAREN NICOLAI

Clerk of Circuit Court - Hernando County, Florida  
North Main Street, Ste 240, Brooksville, Fl 34601 (352)540-6246

December 22, 2011

David W. Martin, CPA  
Auditor General  
State of Florida  
401 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Fl 32399-1450

Dear Mr. Martin

Pursuant to Florida Statute 11.45(4)(d), I am submitting the following written responses to the findings and recommendations as requested in your letter dated December 2, 2011.

**Finding No. 1: Various conflicts and inconsistencies exist in law relating to court fees.**

The Hernando County Clerk's Office agrees that conflicts and inconsistencies exist within Florida Statutes relating to court fees. The complexity of the distribution has been discussed at numerous Clerk seminars and other venues. We appreciate the Auditor General bringing necessary attention to this matter and are hopeful that the process will be simplified.

**Finding No. 2: The clerks we reviewed had either not performed or not documented a recent risk assessment relating to the processes of assessing, collecting, remitting, and reporting court fees.**

The Hernando County Clerk's Office concurs that such periodic risk assessments are important. Beginning January 1, 2012, the Clerk's Office will expand the periodic risk assessment related to the collection, remittance and reporting of court fees.

**Finding No. 3: Most of the clerks we reviewed had not established comprehensive, written policies and procedures that covered one or more critical functions relating to assessing, collecting, remitting, and reporting of court fees.**

The Hernando County Clerk's Office recognizes the importance of the comprehensive policies and procedures set forth in the audit finding. In fact, prior to the commencement of the audit, the Clerk's Office identified the importance of this need and hired a policy specialist whose initial function was to draft policies related to the identified areas. The audit identifies eight (8) areas of concern which will be addressed separately.

(3)(a) Verifying accuracy and completeness of assessments made by the courts: The accuracy and completeness of court fines and assessments is verified through a multi-tiered procedure. The court clerks record the fines and assessments ordered by the judge. Those figures and allocations are verified by the criminal clerk who enters the disposition into the case management system. The Clerk's Office will continue to review this procedure for improvements in efficiency and draft a policy according to this procedure.

(3)(b) Indigency determinations – Since 1998, the Hernando County Clerk's Office has had a written insolvency policy that follows statutory guidelines. The Clerk's Office is currently reviewing this policy for any necessary updates or revisions.

(3)(c) Receipting and recording court fees – This finding is not applicable to the Hernando County Clerk's Office.

(3)(d) Collections of past due amounts – Hernando County utilizes an outside service for the collection of past due amounts. The Clerk's Office is currently drafting a policy and procedure for all aspects of external collections.

(3)(e) Remittance to DOR – At the time of audit field work, the Hernando County Clerk's Office had already been operating under a draft version of the remittance policy. A copy was provided at the time of the audit and, since closing the audit, the policy has been fully approved and continues to be in use.

(3)(f) CCOC Monthly Outputs Report – In addition to the statutory guidance and business rules provided by the CCOC, a written policy and procedure has been developed, approved and implemented.

(3)(g) CCOC Collection Rate Performance Measures - In addition to the statutory guidance and business rules provided by the CCOC, a written policy and procedure has been developed, approved and implemented.

(3)(h) FACC Annual Assessments and Collections Report - In addition to the statutory guidance and business rules provided by the FACC, the Clerk's Office is in the process or working with necessary personnel to create a written procedure for this annual report.

**Finding No. 4: Most of the clerks we reviewed had not developed comprehensive fraud policies.**

This finding is not applicable to the Hernando County Clerk's Office.

**Finding No. 5: For most of the clerks we reviewed, we noted control deficiencies relating to the assessment, collection, and remittance of court fees.**

The Hernando County Clerk's Office is identified in one of the five areas of concern noted in this finding. The Clerk's Office concurs with the audit comment and acknowledges that there is a

potential risk of incoming mail tampering and accepts that risk. Prior to the audit, cost effective controls were implemented to reduce that risk to an acceptable level.

**Finding No. 6: Some of the clerks we reviewed did not pursue the collection of past due court fees, contrary to Section 28.246, Florida Statutes.**

This finding is not applicable to the Hernando County Clerk's Office.

**Finding No. 7: Some of the clerks we reviewed did not remit partial payments of court fees in accordance with the priority established by Section 28.246(5), Florida Statutes.**

The Hernando County Clerk's Office concurs that every effort should be made to remit partial payments of court fees. The financial software package utilized by the Civil Division in Hernando County precluded the remittance of partial payments. In the spring of 2012, the Clerk's Office will implement a new software package that will allow for more efficient compliance with the statutory requirement.

**Finding No. 8: We noted many instance in which clerks we reviewed did not report court fee collections to the Department of Revenue using the correct statutory citation categories, resulting in incorrect information for data analysis purposes or moneys deposited into incorrect State funds.**

The Hernando Clerk's Office concurs that monies remitted to the Department of Revenue should be properly reported. When the Auditor General identified a single line item that was incorrectly reported, this new statutory allocation was immediately corrected and the Clerk's Office is now in the process of developing a more cohesive plan for statutory changes to be implemented and verified by the Court Services and Finance Departments.

**Finding No. 9: Some of the clerks we reviewed did not remit interest earned on court fee collections to the Department of Revenue, contrary to Section 28.245, Florida Statutes. Other clerks remitted the interest earned net of related bank charges without apparent authority to do so.**

Hernando County is not one of the identified counties. No response is necessary.

**Finding No. 10: Some of the clerks we reviewed inconsistently reported assessment and collection amounts to the CCOC. Also, there were instances in which some of the clerks we reviewed did not maintain records to support amounts reported to CCOC.**

The Hernando County Clerk's Office concurs that clerks should maintain the case detail to support the assessment and collection amounts reported to the CCOC. Personnel from the Court Services and Technology Departments have worked together during and subsequent to the audit to create a procedure for the electronic retention of the voluminous case detail produced in support of this

report. This new procedure is contained in the policy referenced in our response to finding number 3 above and has been implemented.

**Finding No. 11:** **Some of the clerks we reviewed did not have the systems capability to properly identify and report converted or reduced assessment of court fees to the legislature.**

This finding is not applicable to the Hernando County Clerk's Office.

**Finding No. 12:** **Most of the clerks we reviewed had employees who performed both court related and county-related activities, and the salary and benefits of these employees were allocated partially to the State (court-related) and partiality to the County (county-related). However, the clerks indicated that these employees did not keep records documenting the actual time and effort they spent on each of these activities to support the allocations of their salaries and benefits.**

The Hernando County Clerk's Office does not concur with the finding and recommendation. Like many of my colleagues, I do not agree that clerks should keep records documenting the actual time and effort of employees who perform both court-related and county-related activities to ensure that these activities are accurately funded from either State or local revenues. The CCOC's annual budget instructions provide the Clerks with various methodologies to calculate overhead/indirect costs. The budget submissions are then reviewed by the Department of Financial Services (DFS) who has regularly approved of the methodologies used. The time keeping process suggested would not be cost beneficial and the allocation methods currently in place have been sufficiently accurate.

Thank you for the professionalism and courtesy of your staff throughout the entire audit process. Please call me if you have any questions or suggestions.

Kind regards.



Karen Nicolai  
Hernando Clerk of the Circuit Court





DALE RABON GUTHRIE  
Clerk of Circuit and County Courts  
*Jackson County*

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December 19, 2011

David W. Martin  
Auditor General  
State of Florida  
401 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Mr. Martin,

Pursuant to Section 11.45(4)(d), Florida Statutes, I am submitting the following written responses to the findings and recommendations as requested in your letter dated December 2, 2011.

- 1) We agree the legislature should review and update conflicting laws and rules. We will petition our Association to make this part of their agenda.
- 2) Although not formally documented we are constantly performing risk assessments concerning the assessment, collection, remittance and reporting of not only court fees but court costs, fines and all items collected by our office. This is the first time we have been asked by any regulatory agency for documentation of our risk assessment on any area of our office (this would include the previous time that the Auditor General's Office visited). While a formal document of risk assessment might be a benefit to our office we know of no requirement of even formal suggestion of any regulatory authority made to our office concerning this issue. We will begin the process of documenting our risks assessments to comply with this finding.
- 3) We are currently compiling all notes, instructions, distribution schedules and other resources to develop step-by-step comprehensive written procedures for each position of the Clerk's Office.
- 4) In developing our "comprehensive fraud policies" we would request for the Auditor General's Office to provide an example that would meet the mandate they are requiring. We will then adopt the items needed into our existing policies to ensure that known or suspected fraud will be reported and properly investigated by the appropriate authority.
- 5) a. We cannot restrictively endorse checks upon receipt because these checks may need to be deposited into several different bank accounts. One receipt may have monies deposited to as many as three different bank

accounts. If we were to restrictively endorse these checks to one account at the end of the day when deposits are prepared we would have to transfer monies from one account to another causing additional work for our one person bookkeeper. We have assessed this risk in our risk assessment and consider it an acceptable risk.

b. In our Traffic Department the transfer of the individual clerk deposits to the clerk responsible for preparing the deposit for the department was not being documented. All other transfers were documented by both the transferee and the transferor. We have corrected this and all transfers are now documented.

c. Due to the size of the office, clerks are required to work in various departments at various times. We do not feel it is cost effective to maintain separate drawers or to cash out each time a clerk is away from his or her work station. We have assessed this risk and are willing to accept it.

d. Manual receipts are prepared for collections on items that have not been processed by the courts with properly signed orders. We cannot process items on the computer until we have the orders signed by the Judge. These items are receipted manually to ensure monies are collected when payment is presented. When the orders are received then the computer is updated to reflect the proper fees, court costs and fines and a computer receipt is prepared and a copy of the manual receipt is stapled with the daily work. We do not daily, independently reconcile these manual receipts to their computer counterparts or to their ultimate deposit in the bank. If the manual receipts are not posted to the computer in a timely fashion the individuals involved will have warrants issued and will be arrested. We have assessed the risk of the use of manual receipts to be acceptable in consideration of the controls in place.

e. It is not cost effective to dedicate two employees for two to three hours each day to open and log each piece of mail received by our office. Furthermore tracing each item logged to the ultimate receipt and deposit would be cumbersome. We have statements on our correspondence not to send cash through the mail. We have reviewed our procedures and have decided to accept the risks of not implementing this control.

6) Not applicable to our Office.

7) Not applicable to our Office.

8) We have developed a table that reconciles each Statute with the financial code, the Distribution Schedule (prepared by FACC) and the general ledger account number used by our financial system. This table is set up in a spreadsheet format so that it can be traced from any of the above headings. It should be noted this table took more than a year to complete as each item noted on the Distribution Schedule had to be traced through to the case system then to the financial system. Also, when changes are made to the statutes or to the Department of Revenue's (DOR) line groupings this table has to be changed along with the changes to be made to the case system then to the financial system. We periodically review the DOR line groupings as well as the Distribution Schedule to ensure the monthly collections are being remitted correctly.

9) We have changed our procedures to record interest income as revenue and bank charges as an expenditure. This is not an equitable manner for our office to record these items as the revenue attributed to court monies will be remitted to the State but the expenditures are set and will not be increased to reflect the true cost.

10) The changes made to New Assessments were caused by Foreclosure sales. As these properties were sold the Assessments (sale proceeds) were assigned to the quarter in which the case was opened. We are working with our software provider to determine how to record this so it will show in the quarter in which it was sold. We did not maintain the case detail for assessment and collections by case for each of the five quarters because our software did not provide for that option. In addition, this would not prove to be feasible as it would be detail for over 30,000 different cases with new detail each quarter.

11) Not applicable to our Office.

12) We are in the process of documenting a typical month to be used for allocating the appropriate personnel between court related and non court related. We will use these as records as documentation for our allocation procedures.

I appreciate your consideration of the operation of my office and the opportunity to respond to these findings and recommendations. I would also like to thank your staff that was assigned to my office, Nicole Ostrowski and Shelly Curti for their professionalism during the course of the engagement.

Sincerely,



Dale Rabon Guthrie  
Clerk of the Circuit Court  
Jackson County, Florida



*Clerk of the Circuit Court • Florida*

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## MARSHA EWING

December 27, 2011

David W. Martin, CPA  
Auditor General  
State of Florida  
401 Claude Pepper Building  
111 West Madison Street  
Tallahassee, FL 32399-1450

Dear Mr. Martin:

Pursuant to Florida Statute 11.45(4)(d), I am submitting the following written responses to the findings and recommendations as requested in your letter dated December 2, 2011.

### LAWS RELATING TO COURT FINES, FEES, AND OTHER CHARGES

Finding No. 1: Various conflicts and inconsistencies exist in laws relating to court fees.

**Response: We concur and are hopeful legislation will be passed to eliminate the inconsistencies and conflicts that currently exist in the laws relating to court fees.**

### COURT-RELATED PROCESSES, POLICIES, AND PROCEDURES

Finding No. 2: The clerks we reviewed had either not performed or not documented a recent risk assessment relating to the processes of assessing, collecting, remitting, and reporting court fees.

**Response: We concur with the Auditor General Report in that independent external CPA firms perform annual audits of the our office in accordance with Florida Statutes and professional auditing standards, which includes performing an annual risk assessment. We understand the importance of periodic risk assessments and will continue our efforts to expand and document risk assessments.**

Finding No. 3: Most of the clerks we reviewed had not established comprehensive, written policies and procedures that covered one or more critical functions relating to assessing, collecting, remitting, and reporting of court fees.

**Response: We have established comprehensive, written policies and procedures (DOR payment Documentation Manual) and will continue to be pro active about keeping it updated as required.**

Finding No. 4: Most of the clerks we reviewed had not developed comprehensive fraud policies.

**Response: Martin County adopted it's Fraud Policy on July 13, 2011. It is now Section 7.310 of the Martin County Clerk of Courts Employee Handbook.**

Finding No. 5: For most of the clerks we reviewed, we noted control deficiencies relating to the assessment, collection, and remittance of court fees.

**Response: We do not maintain a mail log. In analyzing the cost associated with doing so, we concluded that resources necessary to so are not available at this time and believe we have additional controls in place which alleviate the risk associated with not maintaining a mail log.**

#### COLLECTION AND REMITTANCE OF COURT FEES

Finding No. 6: Some of the clerks we reviewed did not pursue the collection of past due court fees, contrary to Section 28.246, Florida Statutes.

**Not applicable to Martin County**

Finding No. 7: Some of the clerks we reviewed did not remit partial payments of court fees in accordance with the priority established by Section 28.246(5), Florida Statutes.

**Not applicable to Martin County**

Finding No. 8: We noted many instances in which clerks we reviewed did not report court fee collections to the Department of Revenue using the correct statutory citation categories, resulting in incorrect information for data analysis purposes or moneys deposited into incorrect State funds.

**Not applicable to Martin County**

Finding No. 9: Some of the clerks we reviewed did not remit interest earned on court fee collections to the Department of Revenue, contrary to Section 28.245, Florida Statutes. Other clerks remitted the interest earned net of related bank charges without apparent authority to do so.

**Response: Martin County remits interest earned on all Court related funds per Section 28.245. Interest earned on funds at the bank are reported and remitted net of related bank charges - as those interest earnings are calculated on available funds after balance to offset services rendered are subtracted from the average positive collected balance. We are unaware of any authority that prohibits this.**

#### REPORTING OF COURT-RELATED ACTIVITIES

Finding No. 10: Some of the clerks we reviewed inconsistently reported assessment and collection amounts to the Florida Clerks of Court Operations Corporation (CCOC). Also, there were instances in which some of the clerks we reviewed did not maintain records to support amounts reported to CCOC.

**Response: We concur. We have established procedures to ensure the electronic retention of case detail to support all reporting requirements.**

Finding No. 11: Some of the clerks we reviewed did not have the systems capability to properly identify and report converted or reduced assessments of court fees to the Legislature.

**Not applicable to Martin County**

Finding No. 12: Most of the clerks we reviewed had employees who performed both court-related and county-related activities, and the salary and benefits of these employees were allocated partially to the State (court-related) and partially to the county (county-related). However, the clerks indicated that these employees did not keep records documenting the actual time and effort they spent on each of the activities to support the allocations of their salaries and benefits.

**Response: We disagree. We follow CCOC's budget instructions. The Department of Financial Services reviews the court-related budgets of all Clerks and to date DFS has not reported any issues relating to overhead allocations.**

We appreciate the opportunity to respond to the findings and recommendations.

Sincerely,

*Marsha Ewing*

Marsha Ewing  
Clerk of the Circuit Court  
Martin County



**HARVEY RUVIN**  
**MIAMI-DADE CLERK**  
**COURTS • COMMISSION • RECORDER • FINANCE**

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DADE COUNTY COURTHOUSE  
 ROOM 242  
 73 West Flagler Street  
 Miami, FL 33130

December 20, 2011

David W. Martin  
 Auditor General  
 State of Florida  
 401 Claude Pepper Building  
 111 West Madison Street  
 Tallahassee, Florida 32399-1450

Dear Mr. Martin:

Pursuant to Section 11.45(4) (d), Florida Statutes, following is our response to the findings outlined in your letter dated December 2, 2011.

**Finding No. 2 Risk Assessment procedures**

The finding does not indicate which Clerks perform and/or document risk assessment; therefore, as a response to this finding, the following outlines how the Miami-Dade County Clerk of Courts evaluates and documents our approach to defining, assessing, and mitigating risks:

**A. Overview Responsibilities:**

1. External Auditors – As part of the annual financial audits, the external auditors review and test internal controls. They also test compliance with regulatory mandates and disclosure requirements. Lastly, they opine on the accuracy of financial reports and related disclosures.
2. Internal Auditors – The Clerk has tasked the Internal Audit section with evaluating and monitoring the Clerk’s Office’s system of internal controls. The internal audit schedule is prepared at the beginning of each calendar year based on a risk mitigation approach that requires biannual audits of each area. Internal audit facilities communication by

Comptroller/Auditor • Civil Division • Criminal Division • Family Division • Juvenile Division • Traffic Division • District Courts Division  
 Technical Services Division • Clerk of the Board of County Commissioners • Marriage License • Parking Violations • Recording • Records/Archives  
 Management • Code Enforcement Support • Value Adjustment Board Support • Human Resources and Administrative Services Division

David W. Martin  
Auditor General  
Page 2

promoting that the Comptroller, Deputy Comptroller and senior management request audits if there is a perceived risk of error, irregularity or fraud.

- 3 Accounting Section – The Deputy Comptroller is responsible for designing accounting controls, accounting systems, processes and procedures that safeguard assets and produce accurate financial reports and supporting documentation. Additionally, the Deputy Comptroller ensures that financial-related legislative mandates are properly executed.
  - a. The general plan for accounting control is concerned with establishing appropriate internal controls to safeguard assets and to ensure the reliability of financial records.
    - Continuously supervise, test and modify that objectives are being accomplished
    - Establish proper segregation of duties
    - Design efficient systems and administrative documents
    - Execute transactions in accordance with management’s authorization
    - Record transactions to permit preparation of financial statements in accordance with regulatory criteria and to maintain accountability of assets
    - Permit access to assets in accordance with management’s authorization
  - b. The plan for compliance with financial legislative mandates requires constant review of new legislation and the interaction and communication with other Clerk’s division and governmental units. To enhance accurate interpretation of regulatory requirements, these are monitored against those of other regulatory entities whenever possible.
- 4 Budget Section – The Budget Section has to develop the Court and Non-Court budgets and ensure compliance to budget restrictions, legislative mandates and various other regulations. It is responsible for developing an effective system that will allow flexibility for adjustments, and that will provide information to a multitude of management and regulatory users. In addition to maintaining the Court and Non-Court budgets, this section is responsible for developing and producing performance reports that are flexible to changing standards and that maintain proper accountability.



David W. Martin  
Auditor General  
Page 3

5. Technical Division- the Chief Information Officer in conjunction with the County's Enterprise Technical Service Division (ETSD) continuously monitors established controls and implements new technologies. All Clerk mission-critical and financial systems are secured behind County-maintained firewalls. All databases are backed up using industry standard procedures and vaulted in off-site hardened facilities. All internet facing applications are checked for security vulnerabilities by ETSD prior to production use.

All financial systems that accept credit cards are scanned quarterly per PCI protocols by ETSD and the County's systems for processing credit cards are PCI compliant. No credit card data is stored in Clerk databases and strict operational procedures are in place per the Clerk of Courts Credit Card processing policy.

6. Operational- The Clerk and the Executive Committee provides oversight and direction to management and encourages an environment that stimulates communication and feedback.

#### **Finding No. 5 Collection Control Deficiencies**

Miami-Dade County Clerk of Courts properly defines responsibility and documents guidelines for the collections process from the time of collection to the subsequent deposits. The primary document titled "Cashiering Internal Control Procedures" is, at minimum, revised annually and distributed to management and cashiering personnel. Internal controls are established utilizing a cost/benefit analysis. The maintenance of a mail log is deemed cost beneficial in instances where the check volume is low and the amounts are high. However, for locations with a high volume of mailed checks for small amounts, our cost/benefit analysis concluded that applying compensating controls instead of check logs resulted in a better utilization of resources without negatively impacting risk.

#### **Finding No. 8 Remittance errors**

We will review our remittance procedures to ensure compliance with statutory requirements.

David W. Martin  
Auditor General  
Page 4

### **Finding No. 10 Performance Reporting**

Our existing computer systems are programmed to assign cases to a control group. Once the case is assigned to a control group, any changes to the original assessment will be reflected in that control group. Funding is not available to change our existing systems nor do we see any major benefits as the rates will not change significantly.

### **Finding No. 11 Reporting converted or reduced Assessments**

The total reported for converted or reduced assessments for Miami-Dade County is correct. The amount is reported in the "Other" column because existing computer systems do not have the capability to separate the reductions into the various categories.

### **Finding No. 12 Time and Effort Reporting**

Miami-Dade County allocates employees' time to court budgets based on the methodology stated in the CCOC Budget Instructions. Maintaining time and effort logs for those employees not 100% court related will be operationally disruptive and cost prohibitive. The costs involved in doing this in the 4<sup>th</sup> largest circuit in America would be massive and greatly outweigh any perceived benefits.

Thank you for your time and recommendations,

Sincerely,

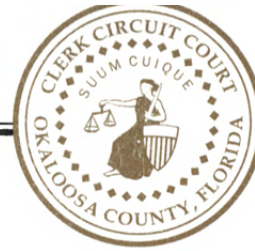


Harvey Ruvin  
Clerk of the Circuit Court  
Miami-Dade County

# DON W. HOWARD

CLERK OF THE CIRCUIT COURT, OKALOOSA COUNTY, FLORIDA

December 20, 2011



Mr. David W. Martin, CPA  
 Florida Auditor General  
 P.O. Box 1735  
 Tallahassee, FL 32302

RE: Audit response of the Okaloosa County Clerk of Circuit Court of the Preliminary and Tentative Findings and Recommendations of your Operational Audit of the Assessment, Collection and Remittance of Court Related Fines, Fees and Other Charges, and Selected Reporting of Court Related Activities by the Clerks of the Circuit Courts, dated December 2, 2011.

Dear Mr. Martin:

The following responses to the above referenced audit need to be understood with the reality of the declining funding environment we have been subject to, specifically since 2009. The Okaloosa Clerk is unable to devote resources to some of the recommendations made within this audit. While some recommendations may be the ideal scenario, funding is simply not available through the appropriation process we now find ourselves in. It is the objective of this office to do everything possible, within the financial constraints, to address your concerns in a proactive manner.

Finding No. 1:

I concur with this finding. The complexities presented by conflicts and inconsistencies within the law overly complicate the Clerk's function. I, as I am sure other Clerks, would welcome precise and clear statutory direction relative to this finding and would work in harmony to address this problem.

Finding No. 2:

Annual risk assessment is performed by both internal and external auditors. This assessment is primarily focused on matters related to internal control and the security of public funds. While it may not be documented, risk is assessed and addressed each time a new Distribution Schedule of Court Related Filing Fees, etc. is produced and court software is adjusted to record the updated allocation of fines, fees, costs and service charges and tests are performed on these updates. To the extent possible with staffing, this office will expand our risk assessment to include periodic reviews relating specifically to the assessment, collection remittance and reporting of court fees.

101 E. JAMES LEE BLVD. • CRESTVIEW, FLORIDA 32536 • (850) 689-5000

REPLY TO:

SHALIMAR ANNEX • 1250 N. EGLIN PKWY, SUITE B-110 • SHALIMAR, FLORIDA 32579 • (850) 651-7200

BRACKIN BUILDING • 302 NORTH WILSON ST., SUITE 203 • CRESTVIEW, FLORIDA 32536 • (850) 689-5000

Mr. David W. Martin, CPA  
December 20, 2011  
Page 2 of 3

Finding No. 3:

The Okaloosa Clerk is in the process of developing comprehensive, written policies and procedures addressing all functions of the clerk. This initiative began approximately four months prior to the conclusion of this audit and will take some time to complete. Comprehensive, written policies and procedures addressing the assessment, collection, remittance and reporting of court fees will be a part of this office-wide initiative.

Finding No. 4:

No response required by the Okaloosa Clerk. Fraud policies and procedures are currently adopted and in force.

Finding No. 5:

The Okaloosa Clerk was cited for only one of the five identified collection control deficiencies. That particular cite was concerning the logging of mail collections. Not only is there a staffing issue presented by this particular process, the benefit comes into question as well. A large number of daily payment transactions occur over the counter by walk in customers. The listing of mail payments seem to be somewhat counterproductive due to the fact that particular listing would not balance to any daily record or totals. Whether or not to implement this recommendation becomes a cost benefit decision considering the fact the listing becomes a stand-alone document that doesn't tie to any daily record.

Finding No. 6:

No response required by the Okaloosa Clerk.

Finding No. 7:

While there was only one instance of a partial payment deficiency, additional staff training has been conducted to ensure partial payment procedures cause the timely remittance to DOR with the priority established by Sec. 28.246(5) F.S.

Finding No. 8:

While no funds were unaccounted for subsequent to the audit, training was conducted with responsible parties to ensure funds collected are being credited to the appropriate state fund. Additional responsibilities have been assigned to certain staff to perform periodic reviews to ensure the accuracy of the appropriate funds being submitted in the DOR remittance portal. Written, comprehensive policies and procedures are being developed at this time to address this function.

Mr. David W. Martin, CPA  
December 20, 2011  
Page 3 of 3

Finding No. 9:

As identified in this finding, the Okaloosa Clerk nets earnings against bank fees. For the entire audit period and to this date, bank service charges have exceeded earnings and by agreement, the bank has waived any fees in excess of earnings. The amount waived by the bank far exceeds earnings. Given this reality, if earnings relative to the court related receipts, as miniscule as it would be, were calculated and paid to the state, the corresponding bank charges attributable to the court functions would far exceed the earnings and therefore, result in a net lower overall remittance to the state.

Finding No. 10:

This finding relative to the Okaloosa Clerk was due to a software error that occurred during conversion involving assessment dates. Assessments dates have since been corrected however; it was not possible, due to the software change, to re-create the reports originally produced during the audit period.

Finding No. 11:

No response required by the Okaloosa Clerk.

Finding No. 12:

The only employees chargeable to the court-side budget whose functions are not 100% court related are those employees in upper management, Clerk Finance and Archives & Records Management. The allocation currently utilized is based on FTE counts and in keeping with budget instructions provided by CCOC. The number of staff subject to this allocation methodology is miniscule. Not only is this recommendation operationally disruptive and extremely costly, but the perceived improvement in the allocation of costs is subject to debate as well. It is not my plan to task an already over-tasked staff to endure such a requirement. I also request the Auditor General review the appropriateness of this finding, especially in counties that have staff assigned full time to court related duties with the exception of those mentioned in this response.

I thank you for your time and consideration.

Sincerely,



Don W. Howard  
Clerk of Circuit Court Okaloosa County



OFFICE OF  
CLERK OF THE CIRCUIT COURT  
312 Northwest Third Street, Suite 101  
Okeechobee, Florida 34972  
863.763.2131

SHARON ROBERTSON  
CLERK OF CIRCUIT COURT

December 22, 2011

David W. Martin  
AUDITOR GENERAL  
State of Florida  
401 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Mr. Martin:

Pursuant to Section 11.45(4)(d), Florida Statutes, I am submitting the following written responses to the findings and recommendations as requested in your letter dated December 2, 2011:

***FINDING 1: CONFLICTS AND INCONSISTENCIES IN LAWS RELATING TO COURT FEES***

Since Clerk's do not make laws, no response is required. However, the Okeechobee County Clerk's Office concurs with your findings.

***FINDING 2: RISK ASSESSMENT PROCEDURES***

The Okeechobee County Clerk's Office agrees with your findings regarding that our external CPA firms perform annual audits of our office in accordance with Florida Statutes and professional auditing standards, which includes performing an annual risk assessment. The Okeechobee County Clerk's Office has performed internal risk assessments, but concurs with your findings that we have not documented said findings. When we perform our internal risk assessments, we will implement reducing said findings to writing.

***FINDING 3: WRITTEN POLICIES AND PROCEDURES***

We concur with your finding that we should develop comprehensive, written policies and procedures addressing all critical functions relating to the assessment, collection, remittance, and reporting of court fees. In 2012, we will begin developing said written policies and procedures.

David W. Martin  
AUDITOR GENERAL  
Page 2  
December 22, 2011

***FINDING 4: FRAUD POLICIES***

The Okeechobee County Clerk's Office agrees with your findings that even though we have adopted work rules, standards of conduct and ethic policies, we do not have a separate comprehensive fraud policy. In 2012, we will begin developing said fraud policy

***FINDING 5: COLLECTION CONTROL DEFICIENCIES***

The Okeechobee County Clerk's Office has a Central Cashiering Department equipped with cameras which is frequently monitored by our Information Technology Division to safeguard against loss. Also, our external auditor's annually review our processes and randomly test the flow of the receipts all the way through to the payment disbursements. We have also assigned person(s) who do not work in Central Cashiering or Finance to send all assessments remaining unpaid after 90 days to collections. However, we do concur with your findings that the person who is assigned to open the mail, does not log collections. The person, who is assigned to open the mail, takes the collections to Central Cashiering to be immediately receipted. Due to staff shortage, we do not believe that we can implement logging collections received in the mail.

***FINDING 6: PAST DUE COLLECTION EFFORTS***

Okeechobee County Clerk's Office was not identified in this finding.

***FINDING 7: PARTIAL PAYMENT DEFICIENCIES***

The Okeechobee County Clerk's Office disburses payments according to the priority established by Florida Statutes. We did note we had one payment that did not disburse correctly but was clerical in nature.

***FINDING 8: REMITTANCE ERRORS***

Okeechobee County was not identified in this finding.

***FINDING 9: INVESTING COURT FEE COLLECTIONS PENDING REMITTANCE TO DOR***

Okeechobee County was not identified in this finding.

***FINDING 10: PERFORMANCE REPORTING***

We concur with your findings that we should maintain the case detail to support the assessment and collection amounts reported on the quarterly collections reports and ensure that their reporting procedures adhere to CCOC reporting instructions. We have contacted our software vendor and are in the process of evaluating the changes needed to maintain said case detail.

David W. Martin  
AUDITOR GENERAL  
Page 3  
December 22, 2011

***FINDING 11: REPORTING CONVERTED OR REDUCED ASSESSMENTS***

The Okeechobee County Clerk's Office concurs with your findings. We are in the process of contacting our software vendor to assist us in implementing the necessary changes to implement accurately reporting converted or reduced assessments.

***FINDING 12: TIME AND EFFORT REPORTING***

The Okeechobee County Clerk's Office does not concur with your findings that we should keep records documenting the actual time and effort of employees who perform both court-related and county-related activities. This office calculates the activities using a method of ratio of court employee and non-court employees. With our current budget and personnel constraints, it would be a hardship on our office, as well as staff, to require individuals to track their time.

Thank you for your time and cooperation and may we assure you of ours in all matters of mutual concern.

Sincerely,

A handwritten signature in black ink that reads "Sharon Robertson". The signature is written in a cursive, flowing style.

Sharon Robertson  
Clerk of Circuit Court





**Mailing Addresses:**

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38053 Live Oak Avenue  
Dade City, FL 33523-3894

New Port Richey:  
P.O. Box 338  
New Port Richey, FL 34656-0338

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East Pasco Government Center  
14236 Sixth Street, Suite 201  
Dade City, FL 33523

West Pasco Government Center  
8731 Citizens Drive, Suite 220  
New Port Richey, FL 34654

East Pasco Records Center  
38319 McDonald Street  
Dade City, FL 33525

West Pasco Records Center  
Jack Albert Records Retention Center  
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poneil@pascoclerk.com

*Excellence... Always*

*Paula S. O'Neil, Ph.D.  
Clerk & Comptroller  
Pasco County, Florida*

December 30, 2011

David W. Martin  
Auditor General  
State of Florida  
401 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Mr. Martin:

Pursuant to Section 11.45(4)(d), Florida Statutes, the following is in response to the findings outlined within your letter dated December 2, 2011.

**Finding No. 2: Risk Assessment Procedures**

As part of the annual financial audit, the external auditor reviews and tests internal controls and compliance with Florida Statutes as it relates to the assessment, collection, and distribution of court-related fees. With regard to internal periodic risk assessments, Pasco County Clerk & Comptroller's Office performs a variety of daily risk assessments and maintains controls to mitigate perceived risks, even though they are not formally documented. For further protection, The Launch Pad has been contracted to conduct a formal risk assessment.

**Finding No. 3: Written Policies and Procedures**

In addition to having access to and the use of Florida Statutes, Laws of Florida, Administrative Orders, County/Municipal Ordinances, and FACC's Best Practices and distribution schedule, deputy clerks work under established comprehensive practices for addressing critical functions relating to the assessment, collection, remittance, and report of court fees. The Pasco County Clerk & Comptroller's Office agrees that evaluating the cost benefit of documenting the established practices into formal procedures is worthwhile and has initiated the development of comprehensive, written procedures that address these areas.

**Finding No. 4: Fraud Policies**

The Office of the Pasco County Clerk & Comptroller was in the process of developing a comprehensive fraud policy during the audit review period and formalized it in May 2011. The fraud policy was provided to and reviewed by the Office of the Auditor General auditors, who advised that the policy was sufficient.

**Finding No. 5: Collection Control Deficiencies**

Deputy clerks use manual receipts only during power outages or when the cashiering system is down. These situations are infrequent. The Pasco County Clerk & Comptroller's Office uses random cash drawer audits, end of day balancing verification, and video surveillance review to safeguard against loss. In consideration of the stated concern, a system of pre-numbered manual receipts is under consideration.

**Finding No. 6: Past Due Collection Efforts**

The current case management system, Criminal Justice Information System (CJIS) was installed in 1977. The cashiering functions required to process court-related fees, fines, and other charges for these areas are performed in a separate cashiering system that is a non-relational database and is not integrated with either of the court case maintenance systems. It is Pasco County Clerk & Comptroller's intent to merge the case and cashiering data and functions from these disparate systems into one centralized case maintenance system, CLERICUS by Civitek. This merger of data will streamline the Clerk & Comptroller's Operation and eliminate redundant data entry. CLERICUS will allow the office to transmit delinquent cases to a collection agency at the expiration of 90 days. As soon as CLERICUS is implemented, all delinquent cases will be processed.

**Finding No. 10: Performance Reporting**

The Pasco County Clerk & Comptroller's current criminal case maintenance and cashiering systems are not integrated and neither have the mechanisms to track assessments. Since the aged systems do not allow for the tracking of assessments, reports were created to track disposed cases resulting in reporting new assessments as adjustments to the original assessments rather than reporting any new assessments in the subsequent quarters. At this time, resources and funding are not available to change our existing systems. The replacement of our existing case maintenance and cashiering systems to CLERICUS in 2012 will allow for reporting assessments in accordance with CCOC reporting instructions and the flexibility of the next generation software will enable future compliance.

**Finding No. 12: Time and Effort Reporting**

Cost allocation is currently based on the amount of time spent on each of the case type categories and non-court activities. Supervisors monitor time spent and items processed to ensure that the allocations are accurate and reliable. This process is monitored throughout the year and adjustments are made annually as each subsequent budget is developed. Each year more processes are tracked by a balanced scorecard and it is projected that we will rely on the integrated automated technologies to determine cost allocations in the future.

Feel free to contact me directly if you have any further questions.

Sincerely,



*Paula S. O'Neil, Ph.D.  
Clerk & Comptroller  
Pasco County, Florida*



**RICHARD M. WEISS**  
 Clerk of the Circuit Court  
 and County Court

**County Recorder**

**Clerk, Auditor and  
 Accountant to the Polk  
 County Board of County  
 Commissioners**

**Drawer CC-1  
 Post Office Box 9000  
 Bartow, FL 33831-9000**

**(863) 534-4540  
 (863) 534-4089 (fax)**

**[www.polkcountyclerk.net](http://www.polkcountyclerk.net)**

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 team dedicated to our  
 customers by**

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 maintaining  
 accurate records**
- **furnishing  
 assistance in an  
 understanding and  
 compassionate  
 manner  
 and**
- **providing services  
 with competence,  
 professionalism,  
 and courtesy**

**In compliance with laws,  
 rules, and regulations.**

December 19, 2011

David W. Martin  
 Auditor General  
 State of Florida  
 401 Claude Pepper Building  
 111 West Madison Street  
 Tallahassee, Florida 32399-1450

Dear Mr. Martin:

Pursuant to Section 11.45(4)(d), Florida Statutes, I am submitting the following written responses to the findings and recommendations as requested in your letter dated December 2, 2011.

**Finding No. 1: Conflicts and Inconsistencies in Laws Relating to Court**

Our office agrees that there are conflicts and inconsistencies in laws relating to court fees, and we appreciate the Auditor General including this finding in the report as well as the recommendation for the Legislature to review these laws. We would also like for the Legislature to consider making necessary changes to simplify the entire process of distribution of monies collected. The complexity of the distribution process was discussed in the Revenue Stabilization Report. Revenues from fines, fees, and other revenue streams are collected and placed in 1,626 different buckets. The collection buckets are sent by the Clerks up to the DOR where they are rolled into 151 remittance buckets that are distributed by the DOR to various state funds. From 2002 to 2010 Clerks had until the 20<sup>th</sup> of the month following collection to check their work and verify figures. The statutes were revised in 2010 to require Clerks to remit monies to the state by the 10<sup>th</sup> of the month following collection. This does not give Clerks time to reconcile their accounts to the level of detail needed for greater accuracy. The number of buckets has grown over the years and must be filled by the Clerks monthly. The Clerks have drafted a Fee Distribution Schedule that has been in effect since 2004 to assist Clerks in distributing monies collected.

**Finding No. 2: Risk Assessment Procedures**

The Auditor General report is correct in that independent external CPA firms perform annual audits of our office in accordance with Florida Statutes and professional auditing standards, which includes performing an annual risk assessment. There are some differences between an external risk assessment by an independent CPA firm and an internal risk assessment; we think the external assessment is valuable. We also agree that there is value in our office evaluating the cost benefit of performing and documenting more formal internal risk assessments.

**Finding No. 3: Written Policies and Procedure**

Our office has established practices and procedures for addressing critical functions relating to the assessment, collection, remittance, and report of court fees. We do rely on externally provided documents (e.g. CCOC and FACC), such as business rules for our needs. We have developed specific standard operating procedures that are specific to individual positions in performing the job tasks. However, we agree that reviewing current practices for possible process improvements adds value.

## Finding No. 4: Fraud Policies

Our office does have practices and measures in place to address fraud; however we have formalized these practices and our office has adopted a written fraud policy as of the date of this response.

## Finding No. 5: Collection Control Deficiencies

Our office has a document titled "Cashiering Procedures" that was developed to document policies and procedure for the collection of funds. This document is reviewed periodically and updated as needed. This document does not have a specific procedure for maintaining a mail log as described in the finding. We have a high volume of checks received in our office. As a part of the cost/benefit analysis, we concluded that other compensating controls provide mitigation of risk and a more effective utilization of resources.

## Finding No. 6: Past due Collection Efforts

Not applicable to Polk County

## Finding No. 7: Partial Payment Deficiencies

Not applicable to Polk County

## Finding No. 8: Remittance Errors

As noted under Finding 1, the complexity of the statutes and manual distribution of remittances sometimes leads to errors. We will review our remittance procedures to ensure compliance with requirements. We have communicated and corrected the errors noted in the remittance finding for Polk to DOR and the proper adjustments has been completed.

## Finding No. 9: Investing Court Fee Collections Pending Remittance to DOR

Not applicable to Polk County

## Finding No. 10: Performance Reporting

Not applicable to Polk County

## Finding No. 11: Reporting Converted or Reduced Assessments

Not applicable to Polk County

## Finding No. 12: Time and Effort Reporting

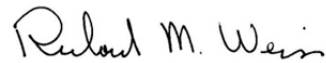
Our office does not agree that Clerks should keep records documenting the actual time and effort of employees who perform both court-related and county-related activities to ensure that these activities are accurately funded from either State or local revenues. The CCOC's annual budget instructions provide the Clerks with various methodologies to calculated overhead/indirect costs. The Department of Financial Services (DFS) reviews the court-related budgets sent to the CCOC pursuant to s. 28.35(3) (b), F.S. To date the DFS has not reported to the CCOC any issues pertaining to overhead allocations. The typical DFS findings read: "our review of supporting documentation disclosed that the methodologies used to calculate and distribute overhead costs were reasonable." We use various methodologies including FTE distribution and actual pieces of mail

Page 3

processed to allocated costs of staff performing court-related and county-related activities. We feel the process involved in keeping actual time records of all split staff would not be cost beneficial and the other methodologies utilized provided sufficient basis for allocating cost.

Our office appreciates the opportunity to respond the findings and recommendations. We would like to thank your staff assigned to our office, David Blanton and Becky Grode for their professionalism during the course of the engagement.

Sincerely,



Richard M. Weiss  
Clerk of the Circuit Court  
Polk County, Florida



Office of  
Clerk of Court  
**Tim Smith**

December 20, 2011

The Honorable David W. Martin  
Florida Auditor General  
P. O. Box 1735  
Tallahassee, FL 32302

**SUBJECT:** Response to preliminary and tentative findings for the audit of the Assessment, Collection, and Remittance of Court-related Fines, Fees, and Other Charges, and Selected Reporting of Court-related Activities by Clerks of the Circuit Court.

Dear Mr. Martin:

The following statement is submitted in response to the findings and recommendations in conjunction with your office's recent audit. The responses are keyed to the numbering of the Preliminary and Tentative Schedule of Findings.

Finding No. 1:

We concur that numerous conflicts and inconsistencies exist in laws relating to court fees and that the Legislature should review those laws and consider amending them, as necessary, to eliminate conflicts and inconsistencies.

Finding No. 2:

We do not agree that performing a formal risk assessment is necessary to achieve the goal of reducing risks to an acceptable level. Senior Management, through experience, is innately aware of the major risk areas. Additionally, two experienced Certified Internal Auditors regularly monitor and test known and perceived areas of risk.

**Putnam County ● P.O. Box 758 ● Palatka, FL 32178-0758**

## Finding No. 3:

Written policies and procedures, without the proper training, cross training, supervision and review, do not ensure the effective, efficient and consistent conduct of the Clerk's business activities. That said, we will conduct a review of the policies and procedures identified in the report, and create or modify them, then re-train as needed.

## Finding No. 4:

Although we believe the tone set in the workplace by the Clerk, senior management, and middle management outweighs the value of having a formal fraud policy in place, we agree that modifying our current policy to address the issues of fraud, waste and abuse will add real value. We are committed to making those changes to our ethics and code of conduct policies in the short term.

## Finding No 5:

This finding did not apply to Putnam.

## Finding No. 6:

Nearly all of our collection options for criminal cases are limited by the judges' actions in sentencing. A large percentage of defendants found guilty are remanded to Corrections and any costs are converted to civil liens. Collection for others is left to the Probation Department. We do not have the resources available to challenge these procedures

## Finding No. 7:

This finding did not apply to Putnam.

## Finding No. 8:

We primarily concur with this finding. With the complexity of the collection and remittance system, errors are likely to occur. Our staff performs tests of the receipting and remittance system on an ongoing basis and immediately corrects any errors noted. We disagree, however, that the Clerk's Independent Auditors should be required to test for compliance with the court fees remittance requirements. Such a requirement would most likely result in increased audit fees in this time of economic hardship.

Rather than increasing audit requirements, we would ask that the Legislature look at streamlining the distribution of fees and remittance requirements. There is a very large amount of time being spent state-wide to support this effort. With limited resources available we need to be very cognizant of the return on investment of those resources, whether it is in reducing risk or increasing collections.

Finding No. 9:

This finding did not apply to Putnam.

Finding No. 10:

We concur with this finding. We no longer change the assessment history as indicated in the preliminary report.

Our IT Department is still evaluating the best way to handle the overwritten files. At this point, it does not look like they will be able to automate the process. A manual effort will be very costly.

Finding No. 11:

This finding did not apply to Putnam.

Finding No. 12:

To clarify, Putnam refers to our split employees as just that – “split “ employees – indicating that their direct responsibilities are split between court and non-court activities. We refer to their direct managers/supervisors as direct overhead and pro-rate their time consistent with the split of the direct labor pool they manage. We also have a group called indirect overhead. This group includes HR, Payroll and Administration. This group is allocated using the pro-ration of direct labor and direct overhead for all Clerk groups.

The only group with a substantial amount of split direct labor is in our Finance department. We do not want to implement a complex time reporting system for these desks/individuals. We believe we can use surrogates like checks issued, and estimate the split more efficiently with approximately the same level of accuracy. If we are required to put in another system for reporting actual time worked for these split employees, we would instead set up two distinct groups of direct people within the department, one for Court and one for non-Court, and would likely increase the cost to the State for both the direct labor and direct and indirect OH. At the same time, we would lose the benefits derived from having a larger pool of trained and cross trained employees – to satisfy our need for coverage and the proper checks and balances in an already small department.



The recurring theme in my response is that we are trying to allocate the resources we have available to us such that we maximize their return. In a world of unlimited resources, the case could be made to invest anything necessary to ensure that all risk was eliminated, and all value created, no matter how small in proportion to the resources used. This is not the world we live in; we never have, and we never will.

Like the private sector, and every family in Florida, we have to make decisions every day about prioritizing the use of our scarce resources. This really should be the expectation of government employers even in good times. We are in total support of reviewing what we do, and how we do it, to ensure that risk and reward are managed in a way that optimizes the return on investment of all resources and responsibilities assigned to us.

Thank you for your thoughtful consideration of our responses. We appreciate the time and effort you have already invested and we're confident that the final report will consider our responses fairly.

Sincerely,



Tim Smith  
Clerk of Courts & Comptroller

**Mary M. Johnson  
Clerk of the Circuit Court  
Santa Rosa County  
P.O. Box 472  
Milton, Florida 32572-0472**

David W. Martin  
Auditor General  
State of Florida  
401 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

December 19, 2011

Dear Mr. Martin:

Pursuant to Section 11.45(4)(d), Florida Statutes, I am submitting the following written responses to the findings and recommendations as requested in your letter dated December 2, 2011.

**AREA: LAWS RELATING TO COURT FINES, FEES, AND OTHER CHARGES**

**General Audit Response Comment:**

The Santa Rosa County Clerk's Office appreciates the Auditor General acknowledging in their report that the 67 Clerks throughout the state successfully collected and remitted \$1.9 Billion in court fees from July 2009 to February 2011. While the staff and budget reductions experienced by our office in recent years presented and continue to present formidable challenges, this office remains committed to successfully performing this important collection and remittance function for the State.

***Finding No. 1:*** *Various conflicts and inconsistencies exist in laws relating to court fees.*

**Response to Finding No. 1:**

The Santa Rosa County Clerk's Office agrees that there are conflicts and inconsistencies in laws relating to court fees. The complexity of the distribution process was discussed in the Revenue Stabilization Report. Revenues from fines, fees, and other revenue streams are collected and placed in 1,626 different buckets. The collection buckets are sent by this office to the DOR where they are rolled into 151 remittance buckets that are distributed by the DOR to various state funds. From 2002 to 2010

Clerks had until the 20<sup>th</sup> of the month following collection to check their work and verify figures. The statutes were revised in 2010 to require Clerks to remit monies to the state by the 10<sup>th</sup> of the month following collection. This does not give Clerks time to reconcile their accounts to the level of detail needed for greater accuracy. The number of buckets has grown over the years and must be filled by this office monthly. The Clerks have drafted a Fee Distribution Schedule that has been in effect since 2004 to assist this office in distributing monies collected.

**AREA: COURT-RELATED PROCESSES, POLICIES, AND PROCEDURES**

***Finding No. 2:*** *The clerks we reviewed had either not performed or not documented a recent risk assessment relating to the processes of assessing, collecting, remitting, and reporting court fees.*

**Response to Finding No. 2:**

The Santa Rosa County Clerk's Office agrees the Auditor General report is correct in that independent external CPA firms perform annual audits of the Clerk's office in accordance with Florida Statutes and professional auditing standards, which includes performing an annual risk assessment. While the Santa Rosa County Clerk's Office agrees that there are some differences between an external risk assessment by an independent CPA firm and an internal risk assessment, we think the external assessment is valuable. We also agree that there is value in this office evaluating the cost benefit of performing and documenting more formal internal risk assessments and this office is in the process of performing and documenting a formal risk assessment.

***Finding No. 3:*** *Most of the clerks we reviewed had not established comprehensive, written policies and procedures that covered one or more critical functions relating to assessing, collecting, remitting, and reporting of court fees.*

**Response to Finding No. 3:**

The Santa Rosa County Clerk's Office has established comprehensive practices for addressing critical functions relating to the assessment, collection, remittance, and report of court fees. However, this office agrees that reviewing current practices for possible process improvements adds value. The Santa Rosa County Clerk's Office also agrees that evaluating the cost benefit of documenting the established practices into formal policies and procedures is worthwhile and has begun the process of documenting these procedures.

***Finding No. 4:*** *Most of the clerks we reviewed had not developed comprehensive fraud policies.*

**Response to Finding No. 4:**

The Santa Rosa County Clerk's Office has written practices and measures in place to address fraud; however the Clerks agree to review them for process improvements and to formally document them.

**Finding No. 5:** *For most of the clerks we reviewed, we noted control deficiencies relating to the assessment, collection, and remittance of court fees.*

**Response to Finding No. 5:**

The Santa Rosa County Clerk's Office has begun endorsing checks immediately upon receipt to limit the negotiability of the checks. The Santa Rosa County Clerk's Office has begun documenting the transfer of the responsibility for the collections from department to the daily deposit. The Santa Rosa County Clerk's Office will assist the CCOC and FACC will work together to develop and share with the Clerks a cost effective implementation plan that supports achieving the Clerk's goals and objectives that include reviewing and implementing effective controls for related risks.

**AREA: COLLECTION AND REMITTANCE OF COURT FEES**

**Finding No. 6:** *Some of the clerks we reviewed did not pursue the collection of past due court fees, contrary to Section 28.246, Florida Statutes.*

**Response to Finding No. 6:**

No response required by this office.

**Finding No. 7:** *Some of the clerks we reviewed did not remit partial payments of court fees in accordance with the priority established by Section 28.246(5), Florida Statutes.*

**Response to Finding No. 7:**

The Santa Rosa County Clerk's Office agrees that this office should enhance our partial payment remittance procedures to ensure that payments are timely remitted to DOR in accordance with the priority established by s. 28.246(5), F.S. As the report points out only 3 of the Santa Rosa County Clerk's Office payments reviewed were not remitted to DOR in accordance to statutory priorities and the report points out the errors appear to be clerical in nature.

**Finding No. 8:** *We noted many instances in which clerks we reviewed did not report court fee collections to the Department of Revenue using the correct statutory citation categories, resulting in incorrect information for data analysis purposes or moneys deposited into incorrect State funds.*

**Response to Finding No. 8:**

The Santa Rosa County Clerk's Office agrees that this office should develop more effective procedures to ensure that court fee collections are recorded on the correct line in DOR's remittance portal. The Santa Rosa County Clerk's Office has attended the numerous FACC training sessions that include participation with DOR staff. However, as noted under Finding 1, the complexity of the statutes and manual distribution of remittances sometimes leads to errors. We also agree that auditing the distribution process could be included as a requirement for the certified public accountants conducting audits of counties pursuant to s. 218.39, F.S. The Auditor General could also include this requirement as part of its compliance supplement responsibilities under s. 28.35(5), F.S.

**Finding No. 9:** *Some of the clerks we reviewed did not remit interest earned on court fee collections to the Department of Revenue, contrary to Section 28.245, Florida Statutes. Other clerks remitted the interest earned net of related bank charges without apparent authority to do so.*

**Response to Finding No. 9:**

The Santa Rosa County Clerk's Office agrees that the Legislature should consider revising s. 28.245, F.S. to clarify interest investment. The Santa Rosa County Clerk's Office has begun reporting to the CCOC monthly the amount of interest collected on our Expenditure and Collections report.

**Finding No. 10:** *Some of the clerks we reviewed inconsistently reported assessment and collection amounts to the Florida Clerks of Court Operations Corporation (CCOC). Also, there were instances in which some of the clerks we reviewed did not maintain records to support amounts reported to CCOC.*

**Response to Finding No. 10:**

The Santa Rosa County Clerk's Office agrees that this office should maintain the case detail to support the assessment and collection amounts reported on the quarterly collections reports and ensure that their reporting procedures adhere to CCOC reporting instructions and we are in the process of evaluating the changes needed to maintain this case detail.

**Finding No. 11:** *Some of the clerks we reviewed did not have the systems capability to properly identify and report converted or reduced assessments of court fees to the Legislature.*

**Response to Finding No. 11:**

No response required by this office.

**Finding No. 12:** *Most of the clerks we reviewed had employees who performed both court-related and county-related activities, and the salary and benefits of these employees were allocated partially to the State (court-related) and partially to the county (county-related). However, the clerks indicated that these employees did not keep records documenting the actual time and effort they spent on each of these activities to support the allocations of their salaries and benefits.*

**Response to Finding No. 12:**

The Santa Rosa County Clerk's Office does not agree that this office should keep records documenting the actual time and effort of employees who perform both court-related and county-related activities. This office calculates the activities using a method using a ratio of court employees and non-court employees. This ratio is allocated to the few shared duty employees in the Santa Rosa Clerk's Office. A timely cost study would not justify the loss of work performance. Ultimately, the results of this timely cost study would probably support our original calculation method. The Department of Financial Services (DFS) reviews the court-related budgets sent to the CCOC pursuant to s. 28.35(3) (b), F.S. To date the DFS has not reported to the CCOC any issues pertaining to overhead allocations. The typical

DFS findings read: "our review of supporting documentation disclosed that the methodologies used to calculate and distribute overhead costs were reasonable."

Your staff was courteous throughout the entire audit. Please call me if you have any questions or suggestions.

Sincerely Yours,



Mary M. Johnson  
Santa Rosa Clerk of the Circuit Court





## Sumter County Clerk's Office

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December 22, 2011

David W. Martin  
Auditor General  
State of Florida  
401 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Mr. Martin:

Pursuant to Section 11.45(4)(d), Florida Statutes, I am submitting the following written responses to the findings and recommendations as requested in your letter dated December 2, 2011.

### **AREA: LAWS RELATING TO COURT FINES, FEES, AND OTHER CHARGES**

#### **General Audit Response Comment:**

The Sumter County Clerk's Office appreciates the Auditor General acknowledging in their report that the 67 Clerks throughout the state successfully collected and remitted \$1.9 Billion in court fees from July 2009 to February 2011. While the staff and budget reductions experienced by our office in recent years presented and continue to present formidable challenges, this office remains committed to successfully performing this important collection and remittance function for the State and County of Sumter.

***Finding No. 1:** Various conflicts and inconsistencies exist in laws relating to court fees.*

#### **Response to Finding No. 1:**

The Sumter County Clerk's Office agrees that there are conflicts and inconsistencies in laws relating to court fees. The complexity of the distribution process was discussed in the Revenue Stabilization Report. Revenues from fines, fees, and other revenue streams are collected and placed in 1,626 different buckets. The collection buckets are sent by this office to the DOR where they are rolled into 151 remittance buckets that are distributed by the DOR to various state funds. The Clerks have drafted a Fee Distribution Schedule that has been in effect since 2004 to assist this office in distributing monies collected. As the buckets grow and the laws change it would be great if we could collect the funds and remit to DOR or distribution to all the state agencies and relieve the Clerk's from this timely task and tons of audit trials to support the distribution.

### **AREA: COURT-RELATED PROCESSES, POLICIES, AND PROCEDURES**

***Finding No. 2:** The clerks we reviewed had either not performed or not documented a recent risk assessment relating to the processes of assessing, collecting, remitting, and reporting court fees.*

#### **Response to Finding No. 2:**

The Sumter County Clerk's Office agrees the Auditor General report is correct in that independent external CPA firms perform annual audits of the Clerk's office in accordance with Florida Statutes and professional auditing standards, which includes performing an annual risk assessment. While the Sumter County Clerk's Office agrees that there are some differences between an external risk assessment by an independent CPA firm and an internal risk assessment, we think the external assessment is valuable. We also agree that there is value in this office

evaluating the cost benefit of performing and documenting more formal internal risk assessments and this office is in the process of performing and documenting a formal risk assessment.

**Finding No. 3:** *Most of the clerks we reviewed had not established comprehensive, written policies and procedures that covered one or more critical functions relating to assessing, collecting, remitting, and reporting of court fees.*

**Response to Finding No. 3:**

The Sumter County Clerk's Office has established comprehensive practices for addressing critical functions relating to the assessment, collection, remittance, and report of court fees. However, this office agrees that reviewing current practices for possible process improvements adds value. The Sumter County Clerk's Office also agrees that evaluating the cost benefit of documenting the established practices into formal policies and procedures is worthwhile and will begin the process of documenting these procedures. Most of the procedures are out of date before they are completed and distributed due to the continuous changes by the state legislatures.

**Finding No. 4:** *Most of the clerks we reviewed had not developed comprehensive fraud policies.*

**Response to Finding No. 4:**

The Sumter County Clerk's Office did not have written policies in place; however the Clerk did have several practices in place to prevent fraud and we have not had any issues with fraud in the past 42 years. The Sumter County Clerk will work on a written policy for fraud.

**Finding No. 5:** *For most of the clerks we reviewed, we noted control deficiencies relating to the assessment, collection, and remittance of court fees.*

**Response to Finding No. 5:**

The Sumter County Clerk's Office agrees that we should establish effective controls to reduce risks. The lack of staff directly impacts the processing of payments. Sumter County has several practices in place to prevent risks and duties have been segregated to further reduce the risk.

**AREA: COLLECTION AND REMITTANCE OF COURT FEES**

**Finding No. 6:** *Some of the clerks we reviewed did not pursue the collection of past due court fees, contrary to Section 28.246, Florida Statutes.*

**Response to Finding No. 6:**

Sumter County works very hard to have good collection rates with in-house collections.

**Finding No. 7:** *Some of the clerks we reviewed did not remit partial payments of court fees in accordance with the priority established by Section 28.246(5), Florida Statutes.*

**Response to Finding No. 7:**

The Sumter County Clerk disburses according to the priority established by Florida Statutes.

**Finding No. 8:** *We noted many instances in which clerks we reviewed did not report court fee collections to the Department of Revenue using the correct statutory citation categories, resulting in incorrect information for data analysis purposes or moneys deposited into incorrect State funds.*

**Response to Finding No. 8:**

The Sumter County Clerk agrees that DOR should work with the Clerk to properly adjust any item that is reported, in a timely manner, which has been improperly posted to the incorrect line on the DOR revenue remittance form. DOR should be timely in changing the form and keeping the line numbers consistent.

**Finding No. 9:** *Some of the clerks we reviewed did not remit interest earned on court fee collections to the Department of Revenue, contrary to Section 28.245, Florida Statutes. Other clerks remitted the interest earned net of related bank charges without apparent authority to do so.*



**Response to Finding No. 9:**

The Sumter County Clerk's Office agrees that the Legislature should consider revising s. 28.245, F.S. to clarify interest investment.

***Finding No. 10:** Some of the clerks we reviewed inconsistently reported assessment and collection amounts to the Florida Clerks of Court Operations Corporation (CCOC). Also, there were instances in which some of the clerks we reviewed did not maintain records to support amounts reported to CCOC.*

**Response to Finding No. 10:**

The Sumter County Clerk has volumes and volumes and volumes of detailed audit trials and supporting documentation since 2004 to cover all areas of Article V Revision 7 financials and furnished them upon request.

***Finding No. 11:** Some of the clerks we reviewed did not have the systems capability to properly identify and report converted or reduced assessments of court fees to the Legislature.*

**Response to Finding No. 11:**

No response required by this office.

***Finding No. 12:** Most of the clerks we reviewed had employees who performed both court-related and county-related activities, and the salary and benefits of these employees were allocated partially to the State (court-related) and partially to the county (county-related). However, the clerks indicated that these employees did not keep records documenting the actual time and effort they spent on each of these activities to support the allocations of their salaries and benefits.*

**Response to Finding No. 12:**

The Sumter County Clerk's Office does not agree that this office should keep records documenting the actual time and effort of employees who perform both court-related and county-related activities. This office calculates the activities using a method using a ratio of court employees and non-court employees. This ratio is allocated to the few shared duty employees in the Sumter Clerk's Office. A timely cost study would not justify the loss of work performance. Ultimately, the results of this timely cost study would probably support our original calculation method. Sumter County has not been fully funded by the state since July 2004 and is supplemented by the county. Only one employee was split in child support and that person is now moved to the county side full time so there are no split positions or any indirect costs in the Sumter County state budget.

Your staff was courteous throughout the entire audit and we hope that we were able to help them understand the demands put upon the Clerks throughout the state with the changes imposed on July 1, 2009.

Respectfully,



Gloria R. Hayward  
Sumter County Clerk of the Circuit Court